

**WISCONSIN STATUTES  
AND  
ADMINISTRATIVE CODE  
RELATING TO THE PRACTICE OF  
ACCOUNTING  
FEBRUARY 2003**



State of Wisconsin  
Department of Regulation and Licensing  
Accounting Examining Board  
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## INTRODUCTION

The Accounting Examining Board licenses and regulates certified public accountants, public accountants and firms. The Board is composed of professional and public members who are appointed by the Governor and confirmed by the Senate.

The Department of Regulation and Licensing is an umbrella agency providing administrative services to the various professional boards. Within the Department, the Bureau of Business and Design Professions provides administrative services to the Accounting Examining Board. Requests for information or technical questions may be directed to the Accounting Examining Board, Bureau of Business and Design Professions, 1400 East Washington Avenue, PO Box 8935, Madison WI 53708. Telephone number: (608) 266-5511 or TTY# (608) 267-2416 and TRS# 1-800-947-3529.

This book contains statutes and rules relevant to the regulation and practice of accounting in Wisconsin. The statutes relate to the structure and authority of the Accounting Examining Board, the structure and authority of the Department of Regulation and Licensing, and the regulation of accountants in the state of Wisconsin. All administrative rules of the Board and a limited number of related rules are included in this book.

The development of statutes and rules is ongoing. Therefore, these statutes and rules may be revised subsequent to the printing of this book. Most local libraries maintain current sets of the Wisconsin Statutes. Both statutes and rules are available at Web pages of the Wisconsin Legislature.

All Wisconsin Statutes and Administrative Codes are available on the Internet at the following addresses:

Statutes: <http://www.legis.state.wi.us/rsb/statutes.html>

Rules: <http://www.legis.state.wi.us/rsb/code/codtoc.html>

## CHAPTER 15

### STRUCTURE OF THE EXECUTIVE BRANCH

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#### SUBCHAPTER I

#### GENERAL PROVISIONS

**15.001 Declaration of policy.** (1) **THREE BRANCHES OF GOVERNMENT.** The “republican form of government” guaranteed by the U.S. constitution contemplates the separation of powers within state government among the legislative, the executive and the judicial branches of the government. The legislative branch has the broad objective of determining policies and programs and review of program performance for programs previously authorized, the executive branch carries out the programs and policies and the judicial branch has the responsibility for adjudicating any conflicts which might arise from the interpretation or application of the laws. It is a traditional concept of American government that the 3 branches are to function separately, without intermingling of authority, except as specifically provided by law.

(2) **GOALS OF EXECUTIVE BRANCH ORGANIZATION.** (a) As the chief administrative officer of the state, the governor should be provided with the administrative facilities and the authority to carry out the functions of the governor’s office efficiently and effectively within the policy limits established by the legislature.

(b) The administrative agencies which comprise the executive branch should be consolidated into a reasonable number of departments and independent agencies consistent with executive capacity to administer effectively at all levels.

(c) The integration of the agencies in the executive branch should be on a functional basis, so that programs can be coordinated.

(d) Each agency in the executive branch should be assigned a name commensurate with the scope of its program responsibilities, and should be integrated into one of the departments or independent agencies of the executive branch as closely as the conflicting goals of administrative integration and responsiveness to the legislature will permit.

(3) **GOALS OF CONTINUING REORGANIZATION.** Structural reorganization should be a continuing process through careful executive and legislative appraisal of the placement of proposed new programs and the coordination of existing programs in response to changing emphasis or public needs, and should be consistent with the following goals:

(a) The organization of state government should assure its responsiveness to popular control. It is the goal of reorganization to improve legislative policy-making capability and to improve the administrative capability of the executive to carry out these policies.

(b) The organization of state government should facilitate communication between citizens and government. It is the goal of reorganization through coordination of related programs in function-oriented departments to improve public understanding of government programs and policies and to improve the relationships between citizens and administrative agencies.

(c) The organization of state government shall assure efficient and effective administration of the policies established by the legislature. It is the goal of reorganization to promote efficiency by improving the management and coordination of state services and by eliminating overlapping activities.

**History:** 1991 a.316.

**15.01 Definitions.** In this chapter: (1g) “Affiliated credentialing board” means a part-time body that meets all of the following conditions:

(a) Is attached to an examining board to regulate a profession that does not practice independently of the profession regulated by the examining board or that practices in collaboration with the profession regulated by the examining board.

(b) With the advice of the examining board to which it is attached, sets standards of professional competence and conduct for the profession under the affiliated credentialing board’s supervision, reviews the qualifications of prospective new practitioners, grants credentials, takes disciplinary action against credential holders and performs other functions assigned to it by law.

(1r) “Board” means a part-time body functioning as the policy-making unit for a department or independent agency or a part-time body with policy-making or quasi-judicial powers.

(2) “Commission” means a 3-member governing body in charge of a department or independent agency or of a division or other subunit within a department, except for the Wisconsin waterways commission which shall consist of 5 members, the parole commission which shall consist of 8 members, and the Fox River management commission which shall consist of 7 members. A Wisconsin group created for participation in a continuing interstate body, or the interstate body itself, shall be known as a “commission”, but is not a commission for purposes of s. 15.06. The parole commission created under s. 15.145 (1) shall be known as a “commission”, but is not a commission for purposes of s. 15.06. The sentencing commission created under s. 15.105 (27) shall be known as a “commission” but is not a commission for purposes of s. 15.06 (1) to (4m), (7), and (9).

(3) “Committee” means a part-time body appointed to study a specific problem and to recommend a solution or policy alternative with respect to that problem, and intended to terminate on the completion of its assignment. Because of their temporary nature, committees shall be created by session law rather than by statute.

(4) “Council” means a part-time body appointed to function on a continuing basis for the study, and recommendation of solutions and policy alternatives, of the problems arising in a specified functional area of state government, except the Wisconsin land council has the powers specified in s. 16.965 (3) and (5) and the powers granted to agencies under ch. 227, the Milwaukee River revitalization council has the powers and duties specified in s. 23.18, the council on physical disabilities has the powers and duties specified in s. 46.29 (1) and (2), and the state council on alcohol and other drug abuse has the powers and duties specified in s. 14.24.

(5) “Department” means the principal administrative agency within the executive branch of Wisconsin state government, but does not include the independent agencies under subch. III.

(6) “Division,” “bureau,” “section” and “unit” means the subunits of a department or an independent agency, whether specifically created by law or created by the head of the department or the independent agency for the more economic and efficient administration and operation of the programs assigned to the department or independent agency. The office of justice assistance in the department of administration and the office of credit unions in the

department of financial institutions have the meaning of "division" under this subsection. The office of the long-term care ombudsman under the board on aging and long-term care and the office of educational accountability in the department of public instruction have the meaning of "bureau" under this subsection.

(7) "Examining board" means a part-time body which sets standards of professional competence and conduct for the profession under its supervision, prepares, conducts and grades the examinations of prospective new practitioners, grants licenses, investigates complaints of alleged unprofessional conduct and performs other functions assigned to it by law. "Examining board" includes the board of nursing.

(8) "Head", in relation to a department, means the constitutional officer, commission, secretary or board in charge of the department. "Head", in relation to an independent agency, means the commission, commissioner or board in charge of the independent agency.

(9) "Independent agency" means an administrative agency within the executive branch created under subch. III.

**History:** 1977 c. 29, 274; 1979 c. 34; 1983 a. 27, 189, 371, 410, 538; 1985 a. 29, 120, 180; 1987 s. 27, 342, 399; 1989 a. 31, 107, 202; 1991 a. 39, 269, 315; 1993 a. 16, 107, 210, 215; 1995 a. 27 ss. 74 and 9145 (1); 1995 a. 442, 462; 1997 a. 27, 237; 2001 a. 16, 105, 109.

**15.02 Offices, departments and independent agencies.** The constitutional offices, administrative departments and independent agencies which comprise the executive branch of Wisconsin state government are structured as follows:

(1) **SEPARATE CONSTITUTIONAL OFFICES.** The governor, lieutenant governor, secretary of state and state treasurer each head a staff to be termed the "office" of the respective constitutional officer.

(2) **PRINCIPAL ADMINISTRATIVE UNITS.** The principal administrative unit of the executive branch is a "department" or an "independent agency". Each such unit shall bear a title beginning with the words "State of Wisconsin" and continuing with "department of..." or with the name of the independent agency. A department may be headed by a constitutional officer, a secretary, a commission or a board. An independent agency may be headed by a commission, a commissioner or a board.

(3) **INTERNAL STRUCTURE.** (a) The secretary of each department may, subject to sub. (4), establish the internal structure within the office of secretary so as to best suit the purposes of his or her department. No secretary may authorize the designation of "assistant secretary" as the official position title of any employee of his or her department.

(b) For field operations, departments may establish district or area offices which may cut across divisional lines of responsibility.

(c) For their internal structure, all departments shall adhere to the following standard terms, and independent agencies are encouraged to review their internal structure and to adhere as much as possible to the following standard terms:

1. The principal subunit of the department is the "division". Each division shall be headed by an "administrator". The office of justice assistance in the department of administration and the office of credit unions in the department of financial institutions have the meaning of "division" and the executive staff director of the office of justice assistance in the department of administration and the director of credit unions have the meaning of "administrator" under this subdivision.

2. The principal subunit of the division is the "bureau". Each bureau shall be headed by a "director". The office of the long-term care ombudsman under the board on aging and long-term care and the office of educational accountability in the department of public instruction have the meaning of "bureau" under this subdivision.

2m. Notwithstanding subs. 1. and 2., the principal subunit of the department of tourism is the "bureau", which shall be headed by a "director".

3. If further subdivision is necessary, bureaus may be divided into subunits which shall be known as "sections" and which shall be headed by "chiefs" and sections may be divided into subunits which shall be known as "units" and which shall be headed by "supervisors".

(4) **INTERNAL ORGANIZATION AND ALLOCATION OF FUNCTIONS.** The head of each department or independent agency shall, subject to the approval of the governor, establish the internal organization of the department or independent agency and allocate and reallocate duties and functions not assigned by law to an officer or any subunit of the

department or independent agency to promote economic and efficient administration and operation of the department or independent agency. The head may delegate and redelegate to any officer or employee of the department or independent agency any function vested by law in the head. The governor may delegate the authority to approve selected organizational changes to the head of any department or independent agency.

**History:** 1971 c. 261; 1973 c. 12; 1975 c. 39; 1977 c. 29; 1979 c. 221; 1987 a. 27, 399; 1993 a. 16, 184, 215, 491; 1995 a. 27 ss. 75, 76, 76c and 9145 (1); 1997 a. 27.

**Limits of internal departmental reorganization discussed.** 61 Atty. Gen. 306.

**15.03 Attachment for limited purposes.** Any division, office, commission, council or board attached under this section to a department or independent agency or a specified division thereof shall be a distinct unit of that department, independent agency or specified division. Any division, office, commission, council or board so attached shall exercise its powers, duties and functions prescribed by law, including rule making, licensing and regulation, and operational planning within the area of program responsibility of the division, office, commission, council or board, independently of the head of the department or independent agency, but budgeting, program coordination and related management functions shall be performed under the direction and supervision of the head of the department or independent agency, except that with respect to the office of the commissioner of railroads, all personnel and biennial budget requests by the office of the commissioner of railroads shall be provided to the department of transportation as required under s. 189.02 (7) and shall be processed and properly forwarded by the public service commission without change except as requested and concurred in by the office of the commissioner of railroads.

**History:** 1981 c. 347; 1983 a. 27; 1993 a. 123, 1999 a. 9.

**15.04 Heads of departments and independent agencies; powers and duties.** (1) **DUTIES.** Each head of a department or independent agency shall:

(a) **Supervision.** Except as provided in s. 15.03, plan, direct, coordinate and execute the functions vested in the department or independent agency.

(b) **Budget.** Biennially compile a comprehensive program budget which reflects all fiscal matters related to the operation of the department or independent agency and each program, subprogram and activity therein.

(c) **Advisory bodies.** In addition to any councils specifically created by law, create and appoint such councils or committees as the operation of the department or independent agency requires. Members of councils and committees created under this general authority shall serve without compensation, but may be reimbursed for their actual and necessary expenses incurred in the performance of their duties and, if such reimbursement is made, such reimbursement in the case of an officer or employee of this state who represents an agency as a member of such a council or committee shall be paid by the agency which pays the officer's or employee's salary.

(d) **Biennial report.** On or before October 15 of each odd-numbered year, submit to the governor and the chief clerk of each house of the legislature, for distribution to the legislature under s. 13.172 (2), a report on the performance and operations of the department or independent agency during the preceding biennium, and projecting the goals and objectives of the department or independent agency as developed for the program budget report. The secretary of administration may prescribe the format of the report and may require such other information deemed appropriate. Each department or independent agency shall provide a copy of its biennial report to legislators upon request. Any department or independent agency may issue such additional reports on its findings and recommendations as its operations require. A department or independent agency may, on or before October 15, submit an annual report prepared by it, in place of the biennial report required under this paragraph, if the submission of the annual reports is approved by the secretary of administration.

(e) **Seal.** Have authority to adopt a seal for the department or independent agency.

(f) **Bonds.** Have authority to require that any officer or employee of the department or independent agency give an official bond under ch.

19, if the secretary of administration agrees that the position held by such officer or employee requires bonding.

**(g) Discrimination review.** In order to determine whether there is any arbitrary discrimination on the basis of race, religion, national origin, sex, marital status or sexual orientation as defined in s. 111.32 (13m), examine and assess the statutes under which the head has powers or regulatory responsibilities, the procedures by which those statutes are administered and the rules promulgated under those statutes. If the department or agency head finds any such discrimination, he or she shall take remedial action, including making recommendations to the appropriate executive, legislative or administrative authority.

**(i) Records and forms management program.** Establish and maintain a records and forms management program.

**(j) Records and forms officer.** Appoint a records and forms officer, who shall be responsible for compliance by the department or independent agency with all records and forms management laws and rules and who may prevent any form from being put into use.

**(k) Form numbering and filing system.** Establish a numbering and filing system for forms.

**(m) Notice on forms.** See that each form used by the department or independent agency to seek information from municipalities, counties or the public contains on the first page of the form, or in the instructions for completing the form, a conspicuous notice of the authorization for the form, whether or not completing the form is voluntary, if it is not voluntary, the penalty for failure to respond and whether or not any personally identifiable information, as defined under s. 19.62 (5), requested in the form is likely to be used for purposes other than for which it is originally being collected. This paragraph does not apply to state tax forms.

**(2) DEPUTY.** Each secretary of a department or head of an independent agency under s. 230.08 (2) (L) may appoint a deputy who shall serve at the pleasure of the secretary or agency head outside the classified service. The deputy shall exercise the powers, duties and functions of the secretary or head in the absence of the secretary or head, and shall perform such other duties as the secretary or head prescribes. The adjutant general may appoint 2 deputies as provided in s. 21.18 (I). In this subsection "secretary" includes the attorney general and the state superintendent of public instruction.

**(3) DEPUTY APPROVALS.** Positions for which appointment is made under sub.(2) may be authorized only under s. 16.505.

**History:** 1971 c. 125; 1975 c. 94; 1977 c. 118, 273, 418, 447; 1979 c. 221; 1981 c. 112, 350; 1981 c. 391 s. 210; 1983 a. 27, 524; 1985 a. 29; 1985 a. 180 ss. 2 to 4, 30m; 1985 a. 332; 1987 a. 147 s. 25; 1987 a. 186; 1989 a. 248; 1991 a. 39, 189; 1995 a. 27; 1997 a. 73.

**15.05 Secretaries. (1) SELECTION.** (a) If a department is under the direction and supervision of a secretary, the secretary shall be nominated by the governor, and with the advice and consent of the senate appointed, to serve at the pleasure of the governor,

(b) Except as provided in pars.(c) and (d), if a department is under the direction and supervision of a board, the board shall appoint a secretary to serve at the pleasure of the board outside the classified service. In such departments, the powers and duties of the board shall be regulatory, advisory and policy-making, and not administrative. All of the administrative powers and duties of the department are vested in the secretary, to be administered by him or her under the direction of the board. The secretary, with the approval of the board, shall promulgate rules for administering the department and performing the duties assigned to the department.

(c) The secretary of natural resources shall be nominated by the governor, and with the advice and consent of the senate appointed, to serve at the pleasure of the governor.

(d) The secretary of agriculture, trade and consumer protection shall be nominated by the governor, and with the advice and consent of the senate appointed, to serve at the pleasure of the governor.

**(3) EXECUTIVE ASSISTANT.** Each secretary may appoint an executive assistant to serve at his or her pleasure outside the classified service. The executive assistant shall perform duties as the secretary prescribes. In this subsection, "secretary" includes the attorney general, the adjutant general, the director of the technical college system and the state superintendent of public instruction.

**(3m) FIELD DISTRICT OR FIELD AREA DIRECTORS.** Each secretary may appoint a director under the classified service for each district or area office established in his or her department under s. 15.02 (3) (b).

**(4) OFFICIAL OATH.** Each secretary shall take and file the official oath prior to assuming office.

**(5) EXECUTIVE ASSISTANT APPROVALS.** Positions for which appointment is made under sub.(3) may be authorized only under s. 16.505.

**History:** 1973 c. 90; 1977 c. 4, 196; 1985 a. 18; 1985 a. 332 s. 251 (3); 1989 a. 31, 169; 1993 a. 399; 1995 a. 27.

A secretary, appointed by the governor, could be removed only by the governor, even though the general appointment statute had been amended to provide that the secretary is appointed by a board to serve at the board's pleasure. *Moses v. Board of Veterans Affairs*, 80 Wis. 2d 411, 259 N.W.2d 102 (1977).

**15.06 Commissions and commissioners. (1) SELECTION OF MEMBERS.** (a) Except as otherwise provided in this subsection, the members of commissions shall be nominated by the governor, and with the advice and consent of the senate appointed, for staggered 6-year terms expiring on March 1 of the odd-numbered years.

(ag) Members of the Wisconsin waterways commission shall be nominated by the governor, and with the advice and consent of the senate appointed, for staggered 5-year terms.

(ar) The commissioner of railroads shall be nominated by the governor, and with the advice and consent of the senate appointed, for a 6-year term expiring on March 1 of an odd-numbered year.

(b) The commissioner of insurance shall be nominated by the governor, and with the advice and consent of the senate appointed, to serve at the pleasure of the governor. The governor may remove from office the commissioner of insurance who was appointed for a fixed term before August 1, 1987.

(d) The members of the personnel commission shall be nominated by the governor, and with the advice and consent of the senate appointed, for 5-year terms, subject to the following conditions:

1. At least one member shall be licensed to practice law in this state.

2. They shall possess some professional experience in the field of personnel or labor relations.

3. No member may hold any other position in state employment.

4. No member, when appointed or for 3 years immediately prior to the date of appointment, may have been an officer of a committee in any political party, partisan political club or partisan political organization or have held or been a candidate for any partisan elective public office. No member may become a candidate for or hold any such office.

5. At no time may more than 2 members be adherents of the same political party.

6. Each member of the commission shall be a U.S. citizen and shall have been a resident of this state for at least 3 years.

**(2) SELECTION OF OFFICERS.** Each commission may annually elect officers other than a chairperson from among its members as its work requires. Any officer may be reappointed or reelected. At the time of making new nominations to commissions, the governor shall designate a member or nominee of each commission to serve as the commission's chairperson for a 2-year term expiring on March 1 of the odd-numbered year except that:

(a) Commencing March 1, 1979, and thereafter, the labor and industry review commission shall elect one of its members to serve as the commission's chairperson for a 2-year term expiring on March 1 of the odd-numbered year.

**(3) FULL-TIME OFFICES.** (a) A commissioner may not hold any other office or position of profit or pursue any other business or vocation, but shall devote his or her entire time to the duties of his or her office. This paragraph does not apply to:

1. The commissioner of insurance.

3. The members of the Wisconsin waterways commission.

(b) The commissioner of insurance shall not engage in any other occupation, business or activity that is in any way inconsistent with the performance of the duties of the commissioner of insurance, nor shall the commissioner hold any other public office.

**(4) CHAIRPERSON; ADMINISTRATIVE DUTIES.** The administrative duties of each commission shall be vested in its chairperson, to be administered by the chairperson under the statutes and rules of the commission and subject to the policies established by the commission.

**(4m) EXECUTIVE ASSISTANT.** Each commission chairperson under s. 230.08 (2) (m) and each commissioner of the public service commission may appoint an executive assistant to serve at his or her

pleasure outside the classified service. The executive assistant shall perform duties as the chairperson or commissioner prescribes.

**(5) FREQUENCY OF MEETINGS; PLACE.** Every commission shall meet on the call of the chairperson or a majority of its members. Every commission shall maintain its offices in Madison, but may meet or hold hearings at such other locations as will best serve the citizens of this state.

**(6) QUORUM.** A majority of the membership of a commission constitutes a quorum to do business, except that vacancies shall not prevent a commission from doing business. This subsection does not apply to the parole commission.

**(7) REPORTS.** Every commission attached to a department shall submit to the head of the department, upon request of that person not more often than annually, a report on the operation of the commission.

**(8) OFFICIAL OATH.** Every commissioner shall take and file the official oath prior to assuming office.

**(9) EXECUTIVE ASSISTANT APPROVALS.** Positions for which appointment is made under sub.(4m) may be authorized only under s. 16.505.

**History:** 1971 c. 193, 307; 1977 c. 29, 196, 274; 1981 c. 347; 1983 a. 27, 371, 410, 538; 1985 a. 29; 1987 a. 27, 403; 1989 a. 31; 1991 a. 39, 269, 316; 1993 a. 16, 123; 1995 a. 27; 1997 a. 27; 2001 a. 16.

A single member of the personnel commission is empowered to act as the commission when 2 of the 3 commission positions are vacant. 68 Atty. Gen. 323.

A commissioner designated as chairperson of the commission under sub.(2) is not appointed to a new position, and Art. IV, s. 26, precludes a salary increase based on that designation. 76 Atty. Gen. 52.

Sub.(3) (a) prohibits a commissioner from pursuing business interests that would prevent properly fulfilling the duties of the office. 77 Atty. Gen. 36.

**15.07 Boards. (1) SELECTION OF MEMBERS.** (a) If a department or independent agency is under the direction and supervision of a board, the members of the board, other than the members serving on the board because of holding another office or position, shall be nominated by the governor, and with the advice and consent of the senate appointed, to serve for terms prescribed by law, except:

1. Members of the higher educational aids board shall be appointed by the governor without senate confirmation.

2. Members of the elections board shall be appointed as provided in s. 15.61.

3. Members of the employee trust funds board appointed or elected under s. 15.16 (1) (a), (b), (d) and (f) shall be appointed or elected as provided in that section.

4. Members of the investment board appointed under s. 15.76 (3) shall be appointed as provided in that section.

5. The members of the educational communications board appointed under s. 15.57 (5) and (7) shall be appointed as provided in that section.

6. Members of the University of Wisconsin Hospitals and Clinics Board appointed under s. 15.96 (8) shall be appointed by the governor without senate confirmation.

(b) For each board not covered under par.(a), the governor shall appoint the members of the board, other than the members serving on the board because of holding another office or position and except as otherwise provided, for terms prescribed by law except that all members of the following boards, or all members of the following boards specified in this paragraph, other than the members serving on a board because of holding another office or position, shall be nominated by the governor, and with the advice and consent of the senate appointed, for terms provided by law:

1. Banking review board.
2. College savings program board.
3. Credit union review board.
5. Savings and loan review board.
8. Real estate board.
9. Board on aging and long-term care.
10. Land and water conservation board.
11. Waste facility siting board.
12. Prison industries board.
14. Deferred compensation board.

15. The 3 members of the lower Wisconsin state riverway board appointed under s. 15.445 (3) (b) 7.

15m. The members of the state fair park board appointed under s. 15.445 (4) (a) 3. to 5.

16. Land information board.

Note: Subd. 16. is repealed eff. 9-1-03 by 1997 Wis. Act 27.

17. Real estate appraisers board.

18. Savings bank review board.

19m. Auctioneer board.

20. The 3 members of the Kickapoo reserve management board appointed under s. 15.445 (2) (b) 3.

22. Private employer health care coverage board.

Note: Subd. 22. is repealed eff. 1-1-10 by 1999 Wis. Act 9.

(c) Except as provided under par.(cm), fixed terms of members of boards shall expire on May 1 and, if the term is for an even number of years, shall expire in an odd-numbered year.

(cm) The term of one member of the ethics board shall expire on each May 1. The terms of 3 members of the development finance board appointed under s. 15.155 (1) (a) 6. shall expire on May 1 of every even-numbered year and the terms of the other 3 members appointed under s. 15.155 (1) (a) 6. shall expire on May 1 of every odd-numbered year. The terms of the 3 members of the land and water conservation board appointed under s. 15.135 (4) (b) 2. shall expire on January 1. The term of the member of the land and water conservation board appointed under s. 15.135 (4) (b) 2m. shall expire on May 1 of an even-numbered year. The terms of members of the real estate board shall expire on July 1. The terms of the appraiser members of the real estate appraisers board and the terms of the auctioneer and auction company representative members of the auctioneer board shall expire on May 1 in an even-numbered year.

(cs) No member of the auctioneer board, real estate appraisers board or real estate board may be an officer, director or employee of a private organization that promotes or furthers any profession or occupation regulated by that board.

**(2) SELECTION OF OFFICERS.** At its first meeting in each year, every board shall elect a chairperson, vice chairperson and secretary each of whom may be reelected for successive terms, except that:

(a) The chairperson and vice chairperson of the investment board shall be designated biennially by the governor.

(b) The chairperson of the board on health care information shall be designated biennially by the governor.

(d) The officers elected by the board of regents of the University of Wisconsin System and the technical college system board shall be known as a president, vice president and secretary.

(e) The representative of the department of justice shall serve as chairperson of the claims board and the representative of the department of administration shall serve as its secretary.

(f) The state superintendent of public instruction or his or her designated representative shall serve as chairperson of the school district boundary appeal board.

(g) A representative of the department of justice designated by the attorney general shall serve as nonvoting secretary to the law enforcement standards board.

(h) The chairperson of the state fair park board shall be designated annually by the governor from among the members appointed under s. 15.445 (4) (a) 3., 4. and 5.

(j) At its first meeting in each even-numbered year, the state capitol and executive residence board shall elect officers for 2-year terms.

(k) The governor shall serve as chairperson of the governor's work-based learning board.

(L) The governor shall serve as chairperson of the information technology management board and the chief information officer shall serve as secretary of that board.

**(3) FREQUENCY OF MEETINGS.** (a) If a department or independent agency is under the direction and supervision of a board, the board shall meet quarterly and may meet at other times on the call of the chairperson or a majority of its members. If a department or independent agency is under the direction and supervision of a board, the board shall, in addition, meet no later than August 31 of each even-numbered year to consider and approve a proposed budget of the department or independent agency for the succeeding fiscal biennium.

(b) Except as provided in par.(bm), each board not covered under par.(a) shall meet annually, and may meet at other times on the call of the chairperson or a majority of its members. The auctioneer board, the real estate board and the real estate appraisers board shall also meet on the call of the secretary of regulation and licensing or his or her designee within the department.

(bm) 1. The board on health care information shall meet 4 times each year and may meet at other times on the call of the chairperson or a majority of the board's members.

2. The environmental education board shall meet 4 times each year and may meet at other times on the call of the chairperson.

3. The auctioneer board shall meet at least 4 times each year.

4. The information technology management board shall meet at least 4 times each year and may meet at other times on the call of the chairperson.

(4) **QUORUM.** A majority of the membership of a board constitutes a quorum to do business and, unless a more restrictive provision is adopted by the board, a majority of a quorum may act in any matter within the jurisdiction of the board. This subsection does not apply to actions of the ethics board or the school district boundary appeal board as provided in ss. 19.47 (4) and 117.05 (2) (a).

(5) **REIMBURSEMENT FOR EXPENSES; COMPENSATION.** Except as provided in sub.(5m), the members of each board shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties, such reimbursement in the case of an officer or employee of this state who represents an agency as a member of a board to be paid by the agency which pays the member's salary. The members shall receive no compensation for their services, except that the following members of boards, except full-time state officers or employees, also shall be paid the per diem stated below for each day on which they were actually and necessarily engaged in the performance of their duties:

(a) Members of the investment board, \$50 per day.

(b) Members of the banking review board, \$25 per day but not to exceed \$1,500 per year.

(c) Members of the auctioneer board, \$25 per day.

(d) Members of the board of agriculture, trade and consumer protection, not exceeding \$35 per day as fixed by the board with the approval of the governor, but not to exceed \$1,000 per year.

(e) In lieu of a per diem, the members of the technical college system board shall receive \$100 annually.

(f) Members of the teachers retirement board, appointive members of the Wisconsin retirement board, appointive members of the group insurance board, members of the deferred compensation board and members of the employee trust funds board, \$25 per day.

(g) Members of the savings and loan review board, \$10 per day.

(gm) Members of the savings bank review board, \$10 per day.

(h) Voting members of the land and water conservation board, \$25 per day.

(i) Members of the educational approval board, \$25 per day.

(j) Members of the state fair park board, \$10 per day but not to exceed \$600 per year.

(k) Members of the ethics board, \$25 per day.

(L) Members of the school district boundary appeal board, \$25 per day.

(n) Members of the elections board, \$25 per day.

(o) Members of the burial sites preservation board, \$25 per day.

(r) Members of the real estate board, \$25 per day.

(s) Members of the credit union review board, \$25 per day but not to exceed \$1,500 per year.

(t) Members of the waste facility siting board who are town or county officials, \$35 per day.

(w) Members of the lower Wisconsin state riverway board, \$25 per day.

(x) Members of the real estate appraisers board, \$25 per day.

(y) Members of the Kickapoo reserve management board, \$25 per day.

(5m) **LIMITATIONS ON SALARY AND EXPENSES. (b) Lower Wisconsin state riverway board.** The members, except for the chairperson, of the lower Wisconsin state riverway board shall be reimbursed under sub.(5) for only their necessary and actual travel expenses incurred in the performance of their duties, or shall be paid \$25 plus mileage incurred in the performance of their duties, whichever is greater. The chairperson of the lower Wisconsin state riverway board shall be reimbursed for all his or her actual and necessary expenses incurred in the performance of his or her duties. The lower Wisconsin state riverway board shall determine which expenses of the chairperson are actual and necessary before reimbursement.

(6) **REPORTS.** Every board created in or attached to a department or independent agency shall submit to the head of the department or

independent agency, upon request of that person not more often than annually, a report on the operation of the board.

(7) **OFFICIAL OATH.** Each member of a board shall take and file the official oath prior to assuming office.

**History:** 1971 c. 100 s. 23; 1971 c. 125, 261, 270, 323; 1973 c. 90, 156, 299, 334; 1975 c. 39, 41, 422; 1977 c. 29 ss. 24, 26, 1650m (3); 1977 c. 203, 277, 418, 427; 1979 c. 34, 110, 221, 346; 1981 c. 20, 62, 94, 96, 156, 314, 346, 374, 391; 1983 a. 27, 282, 403; 1985 a. 30, 29, 316; 1987 a. 27, 119, 142, 334, 399, 403; 1989 a. 31, 102, 114, 319, 399, 340; 1991 a. 25, 39, 116, 221, 269, 316; 1993 a. 16, 75, 102, 134, 349, 399, 490; 1995 a. 27, 216, 247; 1997 a. 27; 1999 a. 9, 44, 181, 197; 2001 a. 16.

"Membership" as used in sub.(4) means the authorized number of positions and not the number of positions that are currently occupied. 66 Atty. Gen. 192.

**15.08 Examining boards and councils. (1) SELECTION OF MEMBERS.** All members of examining boards shall be residents of this state and shall, unless otherwise provided by law, be nominated by the governor, and with the advice and consent of the senate appointed. Appointments shall be for the terms provided by law. Terms shall expire on July 1. No member may serve more than 2 consecutive terms. No member of an examining board may be an officer, director or employee of a private organization which promotes or furthers the profession or occupation regulated by that board.

(1m) **PUBLIC MEMBERS.** (a) Public members appointed under s. 15.405 or 15.407 shall have all the powers and duties of other members except they shall not prepare questions for or grade any licensing examinations.

(am) Public members appointed under s. 15.405 or 15.407 shall not be, nor ever have been, licensed, certified, registered or engaged in any profession or occupation licensed or otherwise regulated by the board, examining board or examining council to which they are appointed, shall not be married to any person so licensed, certified, registered or engaged, and shall not employ, be employed by or be professionally associated with any person so licensed, certified, registered or engaged.

(b) The public members of the chiropractic examining board, the denhstry examining board, the hearing and speech examining board, the medical examining board, perfusionists examining council, respiratory care practitioners examining council and council on physician assistants, the board of nursing, the nursing home administrator examining board, the veterinary examining board, the optometry examining board, the pharmacy examining board, the marriage and family therapy, professional counseling, and social work examining board, and the psychology examining board shall not be engaged in any profession or occupation concerned with the delivery of physical or mental health care.

(c) The membership of each examining board and examining council created in the department of regulation and licensing after June 1, 1975, shall be increased by one member who shall be a public member appointed to serve for the same term served by the other members of such examining board or examining council, unless the act relating to the creation of such examining board or examining council provides that 2 or more public members shall be appointed to such examining board or examining council.

(2) **SELECTION OF OFFICERS.** At its first meeting in each year, every examining board shall elect from among its members a chairperson, vice chairperson and, unless otherwise provided by law, a secretary. Any officer may be reelected to succeed himself or herself.

(3) **FREQUENCY OF MEETINGS.** (a) Every examining board shall meet annually and may meet at other times on the call of the chairperson or of a majority of its members.

(b) The medical examining board shall meet at least 12 times annually.

(c) The hearing and speech examining board shall meet at least once every 3 months.

(4) **QUORUM.** (a) A majority of the membership of an examining board constitutes a quorum to do business, and a majority of a quorum may act in any matter within the jurisdiction of the examining board.

(b) Notwithstanding par.(a), no certificate or license which entitles the person certified or licensed to practice a trade or profession shall be suspended or revoked without the affirmative vote of two-thirds of the voting membership of the examining board.



**(5) GENERAL POWERS.** Each examining board: (a) May compel the attendance of witnesses, administer oaths, take testimony and receive proof concerning all matters within its jurisdiction.

**(b)** Shall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains, and define and enforce professional conduct and unethical practices not inconsistent with the law relating to the particular trade or profession.

**(c)** May limit, suspend or revoke, or reprimand the holder of, any license, permit or certificate granted by the examining board.

**(6) IMPROVEMENT OF THE PROFESSION.** In addition to any other duties vested in it by law, each examining board shall foster the standards of education or training pertaining to its own trade or profession, not only in relation of the trade or profession to the interest of the individual or to organized business enterprise, but also in relation to government and to the general welfare. Each examining board shall endeavor, both within and outside its own trade or profession, to bring about a better understanding of the relationship of the particular trade or profession to the general welfare of this state.

**(7) COMPENSATION AND REIMBURSEMENT FOR EXPENSES.** Each member of an examining board shall, unless the member is a full-time salaried employee of this state, be paid a per diem of \$25 for each day on which the member was actually and necessarily engaged in the performance of examining board duties. Each member of an examining board shall be reimbursed for the actual and necessary expenses incurred in the performance of examining board duties.

**(8) OFFICIAL OATH.** Every member of an examining board shall take and file the official oath prior to assuming office.

**(9) ANNUAL REPORTS.** Every examining board shall submit to the head of the department in which it is created, upon request of that person not more often than annually, a report on the operation of the examining board.

**(10) SEAL.** Every examining board may adopt a seal.

History: 1971 c. 40; 1975 c. 86, 199; 1977 c. 418; 1979 c. 32; 1979 c. 34 ss. 32e to 32s, 2102 (45) (a); 1979 c. 221; 1981 c. 94; 1983 a. 403, 524; 1985 a. 332, 340; 1987 a. 399; 1989 a. 229, 316, 359; 1991 a. 39, 160, 316; 1993 a. 105, 107, 184, 490; 1995 a. 245; 1997 a. 175; 1999 a. 180; 2001 a. 80, 89, 105.

Selection and terms of officers of regulatory and licensing boards are discussed. 75 Att'y. Gen. 247 (1986).

**15.085 Affiliated credentialing boards. (1) SELECTION OF MEMBERS.** All members of affiliated credentialing boards shall be residents of this state and shall, unless otherwise provided by law, be nominated by the governor, and with the advice and consent of the senate appointed. Appointments shall be for the terms provided by law. Terms shall expire on July 1. No member may serve more than 2 consecutive terms. No member of an affiliated credentialing board may be an officer, director or employee of a private organization which promotes or furthers the profession or occupation regulated by that board.

**(Im) PUBLIC MEMBERS.** (a) Public members appointed under s. 15.406 shall have all of the powers and duties of other members except that they shall not prepare questions for or grade any licensing examinations.

**(am)** Public members appointed under s. 15.406 shall not be, nor ever have been, licensed, certified, registered or engaged in any profession or occupation licensed or otherwise regulated by the affiliated credentialing board to which they are appointed, shall not be married to any person so licensed, certified, registered or engaged, and shall not employ, be employed by or be professionally associated with any person so licensed, certified, registered or engaged.

**(b)** The public members of the physical therapists affiliated credentialing board, podiatrists affiliated credentialing board or occupational therapists affiliated credentialing board shall not be engaged in any profession or occupation concerned with the delivery of physical or mental health care.

**(2) SELECTION OF OFFICERS.** At its first meeting in each year, every affiliated credentialing board shall elect from among its members a chairperson, vice chairperson and, unless otherwise provided by law, a secretary. Any officer may be reelected to succeed himself or herself.

**(3) FREQUENCY OF MEETINGS.** (a) Every affiliated credentialing board shall meet annually and may meet at other times on the call of the chairperson or of a majority of its members.

**(b)** The chairperson of an affiliated credentialing board shall meet at least once every 6 months with the examining board to which the

affiliated credentialing board is attached to consider all matters of joint interest.

**(4) QUORUM.** (a) A majority of the membership of an affiliated credentialing board constitutes a quorum to do business, and a majority of a quorum may act in any matter within the jurisdiction of the affiliated credentialing board.

**(b)** Notwithstanding par.(a), no certificate or license which entitles the person certified or licensed to practice a trade or profession shall be suspended or revoked without the affirmative vote of two-thirds of the membership of the affiliated credentialing board.

**(5) GENERAL POWERS.** Each affiliated credentialing board:

**(a)** May compel the attendance of witnesses, administer oaths, take testimony and receive proof concerning all matters within its jurisdiction.

**(b)** Shall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains, and define and enforce professional conduct and unethical practices not inconsistent with the law relating to the particular trade or profession. In addition to any other procedure under ch. 227 relating to the promulgation of rules, when promulgating a rule, other than an emergency rule under s. 227.24, an affiliated credentialing board shall do all of the following:

1. Submit the proposed rule to the examining board to which the affiliated credentialing board is attached. The proposed rule shall be submitted under this subdivision at least 60 days before the proposed rule is submitted to the legislative council staff under s. 227.15 (l).

2. Consider any comments on a proposed rule made by the examining board to which the affiliated credentialing board is attached, if the examining board submits the comments to the affiliated credentialing board within 30 days after a public hearing on the proposed rule under s. 227.18 or, if no hearing is held, within 30 days after the proposed rule is published under s. 227.16 (2) (e).

3. Include, in the report submitted to the legislature under s. 227.19 (2), any comments on the proposed rule submitted by the examining board under subd. 2. and the affiliated credentialing board's responses to those comments.

**(c)** May limit, suspend or revoke, or reprimand the holder of, any license, permit or certificate granted by the affiliated credentialing board.

**(6) IMPROVEMENT OF THE PROFESSION.** In addition to any other duties vested in it by law, each affiliated credentialing board shall foster the standards of education or training pertaining to its own trade or profession, not only in relation of the trade or profession to the interest of the individual or to organized business enterprise, but also in relation to government and to the general welfare. Each affiliated credentialing board shall endeavor, both within and outside its own trade or profession, to bring about a better understanding of the relationship of the particular trade or profession to the general welfare of this state.

**(7) COMPENSATION AND REIMBURSEMENT FOR EXPENSES.** Each member of an affiliated credentialing board shall, unless the member is a full-time salaried employee of this state, be paid a per diem of \$25 for each day on which the member was actually and necessarily engaged in the performance of affiliated credentialing board duties. Each member of an affiliated credentialing board shall be reimbursed for the actual and necessary expenses incurred in the performance of affiliated credentialing board duties.

**(8) OFFICIAL OATH.** Every member of an affiliated credentialing board shall take and file the official oath prior to assuming office.

**(9) ANNUAL REPORTS.** Every affiliated credentialing board shall submit to the head of the department in which it is created, upon request of that person not more often than annually, a report on the operation of the affiliated credentialing board.

**(10) SEAL.** Every affiliated credentialing board may adopt a seal.

History: 1993 a. 107; 1997 a. 175; 1999 a. 180.

**15.09 Councils. (1) SELECTION OF MEMBERS.** (a) Unless otherwise provided by law, the governor shall appoint the members of councils for terms prescribed by law. Except as provided in par. @, fixed terms shall expire on July 1 and shall, if the term is for an even number of years, expire in an odd-numbered year.

**(b)** The terms of the members of the council on recycling shall expire as specified under s. 15.347 (17) (c).

**(2) SELECTION OF OFFICERS.** Unless otherwise provided by law, at its first meeting in each year every council shall elect a chairperson,

vice chairperson and secretary from among its members. Any officer may be reelected for successive terms. For any council created under the general authority of s. 15.04 (1) (c), the constitutional officer or secretary heading the department or the chief executive officer of the independent agency in which such council is created shall designate an employee of the department or independent agency to serve as secretary of the council and to be a voting member thereof.

**(3) LOCATION AND FREQUENCY OF MEETINGS.** Unless otherwise provided by law, every council shall meet at least annually and shall also meet on the call of the head of the department or independent agency in which it is created, and may meet at other times on the call of the chairperson or a majority of its members. A council shall meet at such locations as may be determined by it unless the constitutional officer or secretary heading the department or the chief executive officer of the independent agency in which it is created determines a specific meeting place.

**(4) QUORUM.** Except as otherwise expressly provided, a majority of the membership of a council constitutes a quorum to do business, and a majority of a quorum may act in any matter within the jurisdiction of the council.

**(5) POWERS AND DUTIES.** Unless otherwise provided by law, a council shall advise the head of the department or independent agency in which it is created and shall function on a continuing basis for the study, and recommendation of solutions and policy alternatives, of the problems arising in a specified functional area of state government.

**(6) REIMBURSEMENT FOR EXPENSES.** Members of a council shall not be compensated for their services, but members of councils created by statute shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties, such reimbursement in the case of an elective or appointive officer or employee of this state who represents an agency as a member of a council to be paid by the agency which pays his or her salary.

**(7) - P O R T S** Unless a different provision is made by law for transmittal or publication of a report, every council created in a department or independent agency shall submit to the head of the department or independent agency, upon request of that person not more often than annually, a report on the operation of the council.

**(8) OFFICIAL OATH.** Each member of a council shall take and file the official oath prior to assuming office.

**History:** 1971 c. 211; 1977 c. 29; 1977 c. 196 s. 131; 1979 c. 34, 346; 1983 a. 27, 388, 410; 1985 a. 84; 1989 a. 335; 1991 a. 39, 189; 1993 a. 184.

## SUBCHAPTER II DEPARTMENTS

### 15.40 Department of regulation and licensing; creation.

There is created a department of regulation and licensing under the direction and supervision of the secretary of regulation and licensing.

**History:** 1971 c. 270 s. 104; 1975 c. 39; 1977 c. 29; 1977 c. 196 s. 131; 1977 c. 418 ss. 24 to 27.

#### 15.405 Same; attached boards and examining boards.

**(1) ACCOUNTING EXAMINING BOARD.** There is created an accounting examining board in the department of regulation and licensing. The examining board shall consist of 7 members, appointed for staggered 4-year terms. Five members shall hold certificates as certified public accountants and be eligible for licensure to practice in this state. Two members shall be public members.

**(2) EXAMINING BOARD OF ARCHITECTS, LANDSCAPE ARCHITECTS, PROFESSIONAL ENGINEERS, DESIGNERS AND LAND SURVEYORS.** There is created an examining board of architects, landscape architects, professional engineers, designers and land surveyors in the department of regulation and licensing. Any professional member appointed to the examining board shall be registered to practice architecture, landscape architecture, professional engineering, the design of engineering systems or land surveying under ch. 443. The examining board shall consist of the following members appointed for 4-year terms: 3 architects, 3 landscape architects, 3 professional engineers, 3 designers, 3 land surveyors and 10 public members.

(a) In operation, the examining board shall be divided into an architect section, a landscape architect section, an engineer section, a designer section and a land surveyor section. Each section shall consist of the 3 members of the named profession appointed to the examining board and 2 public members appointed to the section. The

examining board shall elect its own officers, and shall meet at least twice annually.

(b) All matters pertaining to passing upon the qualifications of applicants for and the granting or revocation of registration, and all other matters of interest to either the architect, landscape architect, engineer, designer or land surveyor section shall be acted upon solely by the interested section.

(c) All matters of joint interest shall be considered by joint meetings of all sections of the examining board or of those sections to which the problem is of interest.

**(2m) EXAMINING BOARD OF PROFESSIONAL GEOLOGISTS, HYDROLOGISTS AND SOIL SCIENTISTS.** (a) There is created in the department of regulation and licensing an examining board of professional geologists, hydrologists and soil scientists consisting of the following members appointed for 4-year terms:

1. Three members who are professional geologists licensed under ch. 470.

2. Three members who are professional hydrologists licensed under ch. 470.

3. Three members who are professional soil scientists licensed under ch. 470.

4. Three public members.

(b) In operation, the examining board shall be divided into a professional geologist section, a professional hydrologist section and a professional soil scientist section. Each section shall consist of the 3 members of the named profession appointed to the examining board and one public member appointed to the section. The examining board shall elect its own officers, and shall meet at least twice annually.

(c) All matters pertaining to passing upon the qualifications of applicants for and the granting or revocation of licenses, and all other matters of interest to either the professional geologist, hydrologist or soil scientist section shall be acted upon solely by the interested section.

(d) All matters of joint interest shall be considered by joint meetings of all sections of the examining board or of those sections to which the matter is of interest.

**(3) AUCTIONEER BOARD.** (a) There is created in the department of regulation and licensing an auctioneer board consisting of the following members appointed for 4-year terms:

1. Four members, each of whom is registered under ch. 480 as an auctioneer, or is an auction company representative, as defined in s. 480.01 (3), of an auction company that is registered under ch. 480 as an auction company.

2. Three public members.

(b) No member of the board may serve more than 2 terms.

**(5) CHIROPRACTIC EXAMINING BOARD.** There is created a chiropractic examining board in the department of regulation and licensing. The chiropractic examining board shall consist of 6 members, appointed for staggered 4-year terms. Four members shall be graduates from a school of chiropractic and licensed to practice chiropractic in this state. Two members shall be public members. No person may be appointed to the examining board who is in any way connected with or has a financial interest in any chiropractic school.

**(5g) CONTROLLED SUBSTANCES BOARD.** There is created in the department of regulation and licensing a controlled substances board consisting of the attorney general, the secretary of health and family services and the secretary of agriculture, trade and consumer protection, or their designees; the chairperson of the pharmacy examining board or a designee; and one psychiatrist and one pharmacologist appointed for 3-year terms.

**(6) DENTISTRY EXAMINING BOARD.** There is created a dentistry examining board in the department of regulation and licensing consisting of the following members appointed for 4-year terms:

(a) Six dentists who are licensed under ch. 447.

(b) Three dental hygienists who are licensed under ch. 447. Notwithstanding s. 15.08 (1m) (a), the dental hygienist members may participate in the preparation and grading of licensing examinations for dental hygienists.

(c) Two public members.

**(6m) HEARING AND SPEECH EXAMINING BOARD.** There is created a hearing and speech examining board in the department of regulation and licensing consisting of the following members appointed for 4-year terms:

(a) Three hearing instrument specialists licensed under subch. I of ch. 459.

(b) One otolaryngologist.

(c) 1. One audiologist registered under subch. III of ch. 459. This subdivision applies during the period beginning on December 1, 1990, and ending on June 30, 1993.

2. One audiologist licensed under subch. II of ch. 459. This subdivision applies after June 30, 1993.

(d) 1. One speech-language pathologist registered under subch. III of ch. 459. This subdivision applies during the period beginning on December 1, 1990, and ending on June 30, 1993.

2. One speech-language pathologist licensed under subch. III of ch. 459. This subdivision applies after June 30, 1993.

(e) Two public members. One of the public members shall be a hearing aid user.

**(7) MEDICAL EXAMINING BOARD.** (a) There is created a medical examining board in the department of regulation and licensing.

(b) The medical examining board shall consist of the following members appointed for staggered 4-year terms:

1. Nine licensed doctors of medicine.

2. One licensed doctor of osteopathy.

3. Three public members.

(c) The chairperson of the patients compensation fund peer review council under s. 655.275 shall serve as a nonvoting member of the medical examining board.

**(7c) MARRIAGE AND FAMILY THERAPY, PROFESSIONAL COUNSELING, AND SOCIAL WORK EXAMINING BOARD.** (a) There is created a marriage and family therapy, professional counseling, and social work examining board in the department of regulation and licensing consisting of the following members appointed for 4-year terms:

1. Four social worker members who are certified or licensed under ch. 457.

2. Three marriage and family therapist members who are licensed under ch. 457.

3. Three professional counselor members who are licensed under ch. 457.

4. Three public members who represent groups that promote the interests of consumers of services provided by persons who are certified or licensed under ch. 457.

(am) The 4 members appointed under par.(a) 1. shall consist of the following:

1. One member who is certified under ch. 457 as an advanced practice social worker.

2. One member who is certified under ch. 457 as an independent social worker.

3. One member who is licensed under ch. 457 as a clinical social worker.

4. At least one member who is employed as a social worker by a federal, state or local governmental agency.

(b) In operation, the examining board shall be divided into a social worker section, a marriage and family therapist section and a professional counselor section. The social worker section shall consist of the 4 social worker members of the examining board and one of the public members of the examining board. The marriage and family therapist section shall consist of the 3 marriage and family therapist members of the examining board and one of the public members of the examining board. The professional counselor section shall consist of the 3 professional counselor members of the examining board and one of the public members of the examining board.

(c) All matters pertaining to granting, denying, limiting, suspending, or revoking a certificate or license under ch. 457, and all other matters of interest to either the social worker, marriage and family therapist, or professional counselor section shall be acted upon solely by the interested section of the examining board.

(d) All matters that the examining board determines are of joint interest shall be considered by joint meetings of all sections of the examining board or of those sections to which the problem is of interest.

(e) Notwithstanding s. 15.08 (4) (a), at a joint meeting of all sections of the examining board, a majority of the examining board constitutes a quorum to do business only if at least 8 members are present at the meeting. At a meeting of a section of the examining board or a joint meeting of 2 or more of the sections of the examining

board, each member who is present has one vote, except as provided in par.(f).

**(f) At a joint meeting of the social worker section and one or both of the other sections of the examining board, each member who is present has one vote, except that the social worker members each have three-fourths of a vote if all 4 of those members are present.**

**(7g) BOARD OF NURSING** There is created a board of nursing in the department of regulation and licensing. The board of nursing shall consist of the following members appointed for staggered 4-year terms: 5 currently licensed registered nurses under ch. 441; 2 currently licensed practical nurses under ch. 441; and 2 public members. Each registered nurse member shall have graduated from a program in professional nursing and each practical nurse member shall have graduated from a program in practical nursing accredited by the state in which the program was conducted.

**(7m) NURSING HOME ADMINISTRATOR EXAMINING BOARD.** There is created a nursing home administrator examining board in the department of regulation and licensing consisting of 9 members appointed for staggered 4-year terms and the secretary of health and family services or a designee, who shall serve as a nonvoting member. Five members shall be nursing home administrators licensed in this state. One member shall be a physician. One member shall be a nurse licensed under ch. 441. Two members shall be public members. No more than 2 members may be officials or full-time employees of this state.

**(8) OPTOMETRY EXAMINING BOARD.** There is created an optometry examining board in the department of regulation and licensing. The optometry examining board shall consist of 7 members appointed for staggered 4-year terms. Five of the members shall be licensed optometrists in this state. Two members shall be public members.

**(9) PHARMACY EXAMINING BOARD.** There is created a pharmacy examining board in the department of regulation and licensing. The pharmacy examining board shall consist of 7 members appointed for staggered 4-year terms. Five of the members shall be licensed to practice pharmacy in this state. Two members shall be public members.

**(10m) PSYCHOLOGY EXAMINING BOARD.** There is created in the department of regulation and licensing a psychology examining board consisting of 6 members appointed for staggered 4-year terms. Four of the members shall be psychologists licensed in this state. Each of the psychologist members shall represent a different specialty area within the field of psychology. Two members shall be public members.

**(10r) REAL ESTATE APPRAISERS BOARD.** (a) There is created a real estate appraisers board in the department of regulation and licensing consisting of the following members appointed for 4-year terms:

1. Three appraisers who are certified or licensed under ch. 458.

2. One assessor, as defined in s. 458.09 (1).

3. Three public members.

(b) Of the appraiser members of the board, one shall be certified under s. 458.06 as a general appraiser, one shall be certified under s. 458.06 as a residential appraiser and one shall be licensed under s. 458.08 as an appraiser. No public member of the board may be connected with or have any financial interest in an appraisal business or in any other real estate-related business. Section 15.08 (1m) (am) applies to the public members of the board. No member of the board may serve more than 2 consecutive terms.

(c) Notwithstanding s. 15.07 (4), a majority of the board constitutes a quorum to do business only if at least 2 of the members present are appraiser members and at least one of the members present is a public member.

**(11) REAL ESTATE BOARD.** There is created a real estate board in the department of regulation and licensing. The real estate board shall consist of 7 members appointed to staggered 4-year terms. Four of the members shall be real estate brokers or salespersons licensed in this state. Three members shall be public members. Section 15.08 (1m) (am) applies to the public members of the real estate board. No member may serve more than 2 terms. The real estate board does not have rule-making authority.

**(12) VETERINARY EXAMINING BOARD.** There is created a veterinary examining board in the department of regulation and licensing. The veterinary examining board shall consist of 8 members appointed for staggered 4-year terms. Five of the members shall be licensed veterinarians in this state. One member shall be a veterinary technician certified in this state. Two members shall be public

members. No member of the examining board may in any way be financially interested in any school having a veterinary department or a course of study in veterinary or animal technology.

**(16) FUNERAL DIRECTORS EXAMINING BOARD.** There is created a funeral directors examining board in the department of regulation and licensing. The funeral directors examining board shall consist of 6 members appointed for staggered 4-year terms. Four members shall be licensed funeral directors under ch. 445 in this state. Two members shall be public members.

**(17) BARBERING AND COSMETOLOGY EXAMINING BOARD.** There is created a barbering and cosmetology examining board in the department of regulation and licensing. The barbering and cosmetology examining board shall consist of 9 members appointed for 4-year terms. Four members shall be licensed barbers or cosmetologists, 2 members shall be public members, one member shall be a representative of a private school of barbering or cosmetology, one member shall be a representative of a public school of barbering or cosmetology and one member shall be a licensed electrologist. Except for the 2 members representing schools, no member may be connected with or have any financial interest in a barbering or cosmetology school.

**History:** 1973 c. 90, 156; 1975 c. 39, 86, 199, 200, 383, 422; 1977 c. 26, 29, 203; 1977 c. 418; 1979 c. 34 ss. 45, 47 to 52; 1979 c. 221, 304; 1981 c. 94 ss. 5, 9 1981 c. 356; 1983 a. 27, 403, 485, 538; 1985 a. 340; 1987 a. 257 s. 2; 1987 a. 264, 265, 316; 1989 a. 316, 340; 1991 a. 39, 78, 160, 189, 269; 1993 a. 16, 102, 463, 465, 491; 1995 a. 27 s. 9126 (19); 1995 a. 225; 1995 a. 305 s. 1; 1995 a. 321, 417; 1997 a. 96, 252, 300; 2001 a. 16, 80.

A medical school instructor serving without compensation is ineligible to serve on the board of medical examiners. 62 Atty. Gen. 193.

An incumbent real estate examining board member is entitled to hold over in office until a successor is duly appointed and confirmed by the senate. The board was without authority to reimburse the nominee for expenses incurred in attending a meeting during an orientation period prior to confirmation. 63 Atty. Gen. 192.

#### **15.406 Same; attached affiliated credentialing boards.**

**(1) PHYSICAL THERAPISTS AFFILIATED CREDENTIALING BOARD.** There is created in the department of regulation and licensing, attached to the medical examining board, a physical therapists affiliated credentialing board consisting of the following members appointed for 4-year terms:

(a) Three physical therapists who are licensed under subch. III of ch. 448.

(am) One physical therapist assistant licensed under subch. III of ch. 448.

**Note:** Par. (am) is created eff. 4-1-04 by 2001 Wis. Act 70.

(b) One public member.

**(2) DIETITIANS AFFILIATED CREDENTIALING BOARD.** There is created in the department of regulation and licensing, attached to the medical examining board, a dietitians affiliated credentialing board consisting of the following members appointed for 4-year terms:

(a) Three dietitians who are certified under subch. V of ch. 448.

(b) One public member.

**(3) PODIATRISTS AFFILIATED CREDENTIALING BOARD.** There is created in the department of regulation and licensing, attached to the medical examining board, a podiatrists affiliated credentialing board consisting of the following members appointed for 4-year terms:

(a) Three podiatrists who are licensed under subch. IV of ch. 448.

(b) One public member.

**(4) ATHLETIC TRAINERS AFFILIATED CREDENTIALING BOARD.** There is created in the department of regulation and licensing, attached to the medical examining board, an athletic trainers affiliated credentialing board consisting of the following members appointed for 4-year terms:

(a) Four athletic trainers who are licensed under subch. VI of ch. 448 and who have not been issued a credential in athletic training by a governmental authority in a jurisdiction outside this state. One of the athletic trainer members may also be licensed under ch. 446 or subch. II, III or IV of ch. 448.

(b) One member who is licensed to practice medicine and surgery under subch. II of ch. 448 and who has experience with athletic training and sports medicine.

(c) One public member.

**(5) OCCUPATIONAL THERAPISTS AFFILIATED CREDENTIALING BOARD.** There is created in the department of regulation and licensing, attached to the medical examining board, an occupational therapists affiliated credentialing board consisting of the following members appointed for 4-year terms:

(a) Three occupational therapists who are licensed under subch. VII of ch. 448.

(b) Two occupational therapy assistants who are licensed under subch. VI of ch. 448.

(c) Two public members.

**History:** 1993 a. 107, 443; 1997 a. 75, 175; 1999 a. 9, 180; 2001 a. 70.

**15.407 Same; councils. (1m) RESPIRATORY CARE PRACTITIONERS EXAMINING COUNCIL.** There is created a respiratory care practitioners examining council in the department of regulation and licensing and serving the medical examining board in an advisory capacity in the formulating of rules to be promulgated by the medical examining board for the regulation of respiratory care practitioners. The respiratory care practitioners examining council shall consist of 3 certified respiratory care practitioners, each of whom shall have engaged in the practice of respiratory care for at least 3 years preceding appointment, one physician and one public member. The respiratory care practitioner and physician members shall be appointed by the medical examining board. The members of the examining council shall serve 3-year terms. Section 15.08 (1) to (4) (a) and (6) to (10) shall apply to the respiratory care practitioners examining council.

**(2) COUNCIL ON PHYSICIAN ASSISTANTS.** There is created a council on physician assistants in the department of regulation and licensing and serving the medical examining board in an advisory capacity. The council's membership shall consist of:

(a) The vice chancellor for health sciences of the University of Wisconsin-Madison or the vice chancellor's designee.

(b) One public member appointed by the governor for a 2-year term.

(c) Three physician assistants selected by the medical examining board for staggered 2-year terms.

**(2m) PERFUSIONISTS EXAMINING COUNCIL.** There is created a perfusionists examining council in the department of regulation and licensing and serving the medical examining board in an advisory capacity. The council shall consist of the following members appointed for 3-year terms:

(a) Three licensed perfusionists appointed by the medical examining board.

(b) One physician who is a cardiothoracic surgeon or a cardiovascular anesthesiologist and who is appointed by the medical examining board.

(c) One public member appointed by the governor.

**(3) EXAMINING COUNCILS; BOARD OF NURSING.** The following examining councils are created in the department of regulation and licensing to serve the board of nursing in an advisory capacity. Section 15.08 (1) to (4) (a) and (6) to (10), applies to the examining councils.

**(a) Registered nurses.** There is created an examining council on registered nurses to consist of 4 registered nurses of not less than 3 years' experience in nursing, appointed by the board of nursing for staggered 4-year terms.

**(b) Practical nurses.** There is created an examining council on licensed practical nurses to consist of one registered nurse, 3 licensed practical nurses and one registered nurse who is a faculty member of an accredited school for practical nurses, appointed by the board of nursing for staggered 3-year terms. No member may be a member of the examining council on registered nurses.

**(4) COUNCIL ON SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY.** There is created a council on speech-language pathology and audiology in the department of regulation and licensing and serving the hearing and speech examining board in an advisory capacity. The council shall consist of the following members appointed for 3-year terms:

(a) Three speech-language pathologists licensed under subch. II of ch. 459.

(b) Two audiologists licensed under subch. II of ch. 459.

**(5) COUNCIL ON REAL ESTATE CURRICULUM AND EXAMINATIONS.** There is created in the department of regulation and licensing a council on real estate curriculum and examinations consisting of 7 members appointed for 4-year terms. Five members shall be real estate brokers or salespersons licensed under ch. 452 and 2 members shall be public members. Of the real estate broker or salesperson members, one member shall be a member of the real estate board appointed by the real estate board, at least 2 members shall be

licensed real estate brokers with at least 5 years of experience as real estate brokers, and at least one member shall be a licensed real estate salesperson with at least 2 years of experience as a real estate salesperson. Of the 2 public members, at least one member shall have at least 2 years of experience in planning or presenting real estate educational programs. No member of the council may serve more than 2 consecutive terms.

**(6) PHARMACIST ADVISORY COUNCIL.** There is created a pharmacist advisory council in the department of regulation and licensing and serving the pharmacy examining board in an advisory capacity. The council shall consist of the following members appointed for 3-year terms:

(a) Two pharmacists licensed under ch. 450 appointed by the chairperson of the pharmacy examining board.

(b) One physician licensed under subch. II of ch. 448 appointed by the chairperson of the medical examining board.

(c) One nurse licensed under ch. 441 appointed by the chairperson of the board of nursing.

**(7) MASSAGE THERAPY AND BODYWORK COUNCIL.** (a) There is created a massage therapy and bodywork council in the department of

regulation and licensing, serving the department in an advisory capacity. The council shall consist of 7 members, appointed for 4-year terms, who are massage therapists or bodyworkers certified under ch. 460 and who have engaged in the practice of massage therapy or bodywork for at least 2 years preceding appointment.

(b) In appointing members under par.(a), the governor shall ensure, to the maximum extent practicable, that the membership of the council is diverse, based on all of the following factors:

1. Massage or bodywork therapies practiced in this state.

2. Affiliation and nonaffiliation with a professional association for the practice of massage therapy or bodywork.

3. Professional associations with which massage therapists or bodyworkers in this state are affiliated.

4. Practice in urban and rural areas in this state.

**Note: Sub. (7) is created eff. 3-1-03 by 2001 Wis. Act 74.**

**History:** 1973 c. 149; 1975 c. 39, 86, 169, 383, 422; 1977 c. 418; 1979 c. 34 ss. 46.53; 1981 c. 390 s. 252; 1985 a. 332 s. 251 (l); 1987 a. 399; 1989 a. 229, 316, 341, 359; 1991 a. 316; 1993 a. 105, 107; 1997 a. 68, 175; 1997 a. 237 s. 727m; 1999 a. 32, 180, 186; 2001 a. 74, 89.

## CHAPTER 440 DEPARTMENT OF REGULATION AND LICENSING

### SUBCHAPTER I GENERAL PROVISIONS

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**Cross reference:** See also RL, Wis. adm. code

### SUBCHAPTER I GENERAL PROVISIONS

**440.03 Definitions. (1)** In chs. 440 to 480, unless the context requires otherwise:

(a) "Department" means the department of regulation and licensing.

(am) "Financial institution" has the meaning given in s. 705.01 (3).

(b) "Grant" means the substantive act of an examining board, section of an examining board, affiliated credentialing board or the department of approving the applicant for credentialing and the preparing, executing, signing or sealing of the credentialing.

(c) "Issue" means the procedural act of the department of transmitting the credential to the person who is credentialed.

(d) "Limit", when used in reference to limiting a credential, means to impose conditions and requirements upon the holder of the credential, and to restrict the scope of the holder's practice.

(dm) "Renewal date" means the date on which a credential expires and before which it must be renewed for the holder to maintain without interruption the rights, privileges and authority conferred by the credential.

(e) "Reprimand" means to publicly warn the holder of a credential.

(f) "Revoke", when used in reference to revoking a credential, means to completely and absolutely terminate the credential and all rights, privileges and authority previously conferred by the credential.

(g) "Secretary" means the secretary of regulation and licensing.

(h) "Suspend", when used in reference to suspending a credential, means to completely and absolutely withdraw and withhold for a period of time all rights, privileges and authority previously conferred by the credential.

**(2)** In this subchapter: (a) "Credential" means a license, permit, or certificate of certification or registration that is issued under chs. 440 to 480.

(b) "Credentialing" means the acts of an examining board, section of an examining board, affiliated credentialing board or the department that relate to granting, issuing, denying, limiting, suspending or revoking a credential.

(bm) "Credentialing board" means an examining board or an affiliated credentialing board in the department.

(c) "Examining board" includes the board of nursing.

(cs) "Minority group member" has the meaning given in s. 580.636 (1) (f).

(cv) "Psychotherapy" has the meaning given in s. 457.01 (8m).

(d) "Reciprocal credential" means a credential granted by an examining board, section of an examining board, affiliated credentialing board or the department to an applicant who holds a credential issued by a governmental authority in a jurisdiction outside this state authorizing or qualifying the applicant to perform acts that are substantially the same as those acts authorized by the credential granted by the examining board, section of the examining board, affiliated credentialing board or department.

**History:** 1977 c. 418; 1979 c. 34; 1979 c. 175 s. 53; 1979 c. 221 s. 2202 (45); 1991 a. 39; 1993 a. 102, 107; 1995 a. 233, 333; 1997 a. 35 s. 448; 1997 a. 237 ss. 532, 539m; 1999 a. 9 s. 2915; 2001 a. 80.

Procedural due process and the separation of functions in state occupational licensing agencies. 1974 WLR 833.

**440.02 Bonds.** Members of the staff of the department who are assigned by the secretary to collect moneys shall be bonded in an amount equal to the total receipts of the department for any month.

#### **440.03 General duties and powers of the department.**

(1) The department may promulgate rules defining uniform procedures to be used by the department, the real estate board, the real estate appraisers board, and all examining boards and affiliated credentialing boards attached to the department or an examining board, for receiving, filing and investigating complaints, for commencing disciplinary proceedings and for conducting hearings.

(Im) The department may promulgate rules specifying the number of business days within which the department or any examining board or affiliated credentialing board in the department must review and make a determination on an application for a permit, as defined in s. 560.41 (2), that is issued under chs. 440 to 480.

(2) The department may provide examination development services, consultation and technical assistance to other state agencies, federal agencies, counties, cities, villages, towns, national or regional organizations of state credentialing agencies, similar credentialing agencies in other states, national or regional accrediting associations, and nonprofit organizations. The department may charge a fee sufficient to reimburse the department for the costs of providing such services. In this subsection, "nonprofit organization" means a nonprofit corporation as defined in s. 181.0103 (17), and an organization exempt from tax under 26 USC 501.

(3) If the secretary reorganizes the department, no modification may be made in the powers and responsibilities of the examining boards or affiliated credentialing boards attached to the department or an examining board under s. 15.405 or 15.406.

(3m) The department may investigate complaints made against a person who has been issued a credential under chs. 440 to 480.

(3q) Notwithstanding sub.(3m), the department of regulation and licensing shall investigate any report that it receives under s. 146.40 (4r) (am) 2. or (em).

(4) The department may issue subpoenas for the attendance of witnesses and the production of documents or other materials prior to the commencement of disciplinary proceedings.

(5) The department may investigate allegations of negligence by physicians licensed to practice medicine and surgery under ch. 448.

(5m) The department shall maintain a toll-free telephone number to receive reports of allegations of unprofessional conduct, negligence or misconduct involving a physician licensed under subch. III of ch. 448. The department shall publicize the toll-free telephone number and the investigative powers and duties of the department and the medical examining board as widely as possible

in the state, including in hospitals, clinics, medical offices and other health care facilities.

(6) The department shall have access to any information contained in the reports filed with the medical examining board, an affiliated credentialing board attached to the medical examining board and the board of nursing under s. 655.045, as created by 1985 Wisconsin Act 29, and s. 655.26.

(7) The department shall establish the style, content and format of all credentials and of all forms for applying for any credential issued or renewed under chs. 440 to 480. All forms shall include a place for the information required under sub.(1)m (a). Upon request of any person who holds a credential and payment of a \$10 fee, the department may issue a wall certificate signed by the governor.

(7m) The department may promulgate rules that establish procedures for submitting an application for a credential or credential renewal by electronic transmission. Any rules promulgated under this subsection shall specify procedures for complying with any requirement that a fee be submitted with the application. The rules may also waive any requirement in chs. 440 to 480 that an application submitted to the department, an examining board or an affiliated credentialing board be executed, verified, signed, sworn or made under oath, notwithstanding ss. 440.26 (2) (b), 440.42 (2) (intro.), 440.91 (2) (intro.), 443.06 (1) (a), 443.10 (2) (a), 445.04 (2), 445.08 (4), 445.095 (1) (a), 448.05 (7), 450.09 (1) (a), 452.10 (1) and 480.08 (2m).

(8) The department may promulgate rules requiring holders of certain credentials to do any of the following:

(a) Display the credential in a conspicuous place in the holder's office or place of practice or business, if the holder is not required by statute to do so.

(b) Post a notice in a conspicuous place in the holder's office or place of practice or business describing the procedures for filing a complaint against the holder.

(9) The department shall include all of the following with each biennial budget request that it makes under s. 16.42:

(a) A recalculation of the administrative and enforcement costs of the department that are attributable to the regulation of each occupation or business under chs. 440 to 480 and that are included in the budget request.

(b) A recommended change to each fee specified under s. 440.05 (1) for an initial credential for which an examination is not required, under s. 440.05 (2) for a reciprocal credential and under s. 440.08 (2) (a) for a credential renewal if the change is necessary to reflect the approximate administrative and enforcement costs of the department that are attributable to the regulation of the particular occupation or business during the period in which the initial or reciprocal credential or credential renewal is in effect and, for purposes of the recommended change to each fee specified under s. 440.08 (2) (a) for a credential renewal, to reflect an estimate of any additional moneys available for the department's general program operations, during the budget period to which the biennial budget request applies, as a result of appropriation transfers that have been or are estimated to be made under s. 20.165 (1) (i) prior to and during that budget period.

(11) The department shall cooperate with the department of health and family services to develop a program to use voluntary, uncompensated services of licensed or certified professionals to assist the department of health and family services in the evaluation of community mental health programs in exchange for continuing education credits for the professionals under ss. 448.40 (2) (e) and 455.065 (5).

(11m) (a) Each application form for a credential issued or renewed under chs. 440 to 480 shall provide a space for the department to require each of the following, other than an individual who does not have a social security number and who submits a statement made or subscribed under oath or affirmation as required under par.(am), to provide his or her social security number:

1. An applicant for an initial credential or credential renewal. If the applicant is not an individual, the department shall require the applicant to provide its federal employer identification number.

2. An applicant for reinstatement of an inactive license under s. 452.12 (6) (e).

(am) If an applicant specified in par.(a) 1. or 2. is an individual who does not have a social security number, the applicant shall

submit a statement made or subscribed under oath that the applicant does not have a social security number. The form of the statement shall be prescribed by the department of workforce development. A credential or license issued in reliance upon a false statement submitted under this paragraph is invalid.

(b) The department shall deny an application for an initial credential or deny an application for credential renewal or for reinstatement of an inactive license under s. 452.12 (6) (e) if any information required under par.(a) is not included in the application form or, in the case of an applicant who is an individual and who does not have a social security number, if the statement required under par.(am) is not included with the application form.

(c) The department of regulation and licensing may not disclose a social security number obtained under par.(a) to any person except the coordinated licensure information system under s. 441.50 (7); the department of workforce development for purposes of administering s. 49.22; and, for a social security number obtained under par.(a) 1., the department of revenue for the sole purpose of requesting certifications under s. 73.0301.

(12m) The department of regulation and licensing shall cooperate with the departments of justice and health and family services in developing and maintaining a computer linkup to provide access to information regarding the current status of a credential issued to any person by the department of regulation and licensing, including whether that credential has been restricted in any way.

(13) The department may conduct an investigation to determine whether an applicant for a credential issued under chs. 440 to 480 satisfies any of the eligibility requirements specified for the credential, including whether the applicant does not have an arrest or conviction record. In conducting an investigation under this subsection, the department may require an applicant to provide any information that is necessary for the investigation or, for the purpose of obtaining information related to an arrest or conviction record of an applicant, to complete forms provided by the department of justice or the federal bureau of investigation. The department shall charge the applicant any fees, costs or other expenses incurred in conducting the investigation under this subsection.

(14) (a) 1. The department shall grant a certificate of registration as a music therapist to a person if all of the following apply:

a. The person is certified, registered or accredited as a music therapist by the Certification Board for Music Therapists, National Music Therapy Registry, American Music Therapy Association or by another national organization that certifies, registers or accredits music therapists.

b. The organization that certified, registered or accredited the person under subd. 1. a. is approved by the department.

c. The person pays the fee specified in s. 440.05 (1) and files with the department evidence satisfactory to the department that he or she is certified, registered or accredited as required under subd. 1. a.

2. The department shall grant a certificate of registration as an art therapist to a person if all of the following apply:

a. The person is certified, registered or accredited as an art therapist by the Art Therapy Credentials Board or by another national organization that certifies, registers or accredits art therapists.

b. The organization that certified, registered or accredited the person under subd. 2. a. is approved by the department.

c. The person pays the fee specified in s. 440.05 (1) and files with the department evidence satisfactory to the department that he or she is certified, registered or accredited as required under subd. 2. a.

3. The department shall grant a certificate of registration as a dance therapist to a person if all of the following apply:

a. The person is certified, registered or accredited as a dance therapist by the American Dance Therapy Association or by another national organization that certifies, registers or accredits dance therapists.

b. The organization that certified, registered or accredited the person under subd. 3. a. is approved by the department.

c. The person pays the fee specified in s. 440.05 (1) and files with the department evidence satisfactory to the department that

he or she is certified, registered or accredited as required under subd.3. a.

(am) The department may promulgate rules that establish requirements for granting a license to practice psychotherapy to a person who is registered under par.(a). Rules promulgated under this paragraph shall establish requirements for obtaining such a license that are comparable to the requirements for obtaining a clinical social worker, marriage and family therapist, or professional counselor license under ch. 457. If the department promulgates rules under this paragraph, the department shall grant a license under this paragraph to a person registered under par.(a) who pays the fee specified in s. 440.05 (1) and provides evidence satisfactory to the department that he or she satisfies the requirements established in the rules.

(b) A person who is registered under par.(a) shall notify the department in writing within 30 days if an organization specified in par.(a) 1. a., 2. a. or 3. a. revokes the person's certification, registration, or accreditation specified in par.(a) 1. a., 2. a., or 3. a. The department shall revoke a certificate of registration granted under par.(a) if such an organization revokes such a certification, registration, or accreditation. If the department revokes the certificate of registration of a person who also holds a license granted under the rules promulgated under par.(am), the department shall also revoke the license.

(c) The renewal dates for certificates granted under par.(a) and licenses granted under par.(am) are specified in s. 440.08 (2) (a). Renewal applications shall be submitted to the department on a form provided by the department and shall include the renewal fee specified in s. 440.08 (2) (a) and evidence satisfactory to the department that the person's certification, registration, or accreditation specified in par.(a) 1. a., 2. a. or 3. a. has not been revoked.

(d) The department shall promulgate rules that specify the services within the scope of practice of music, art, or dance therapy that a person who is registered under par.(a) is qualified to perform. The rules may not allow a person registered under par.(a) to perform psychotherapy unless the person is granted a license under the rules promulgated under par.(am).

**Cross reference:** See also chs. RL 140, 141, and 142, Wis. adm. code.

(e) Subject to the rules promulgated under sub.(1), the department may make investigations and conduct hearings to determine whether a violation of this subsection or any rule promulgated under par.(d) has occurred and may reprimand a person who is registered under par.(a) or holds a license granted under the rules promulgated under par.(am) or may deny, limit, suspend, or revoke a certificate of registration granted under par.(a) or a license granted under the rules promulgated under par.(am) if the department finds that the applicant or certificate or license holder has violated this subsection or any rule promulgated under par.(d).

(f) A person who is registered under par.(a) or holds a license granted under the rules promulgated under par.(am) who violates this subsection or any rule promulgated under par.(d) may be fined not more than \$200 or imprisoned for not more than 6 months or both.

(15) The department shall promulgate rules that establish the fees specified in ss. 440.05 (10) and 440.08 (2) (d).

(16) Annually, the department shall distribute the form developed by the medical and optometry examining boards under 2001 Wisconsin Act 16, section 9143 (3c), to all school districts and charter schools that offer kindergarten, to be used by pupils to provide evidence of eye examinations under s. 118.135.

**History:** 1977 c. 418 ss. 24, 792; 1979 c. 34, 221, 337; 1981 c. 94; 1985 a. 29, 340; 1989 a. 31, 340; 1991 a. 39; 1993 a. 16, 102, 107, 443, 445, 490, 491; 1995 a. 27 ss. 6472g, 6472j, 9126 (19); 1995 a. 233; 1997 a. 27, 75, 79; 1997 a. 191 ss. 312.313, 318; 1998 a. 231, 237; 1997 a. 261 ss. 10, 4, 7, 10, 13; 1997 a. 311; 1999 a. 9, 32; 2001 a. 16, 66, 80.

**Cross reference:** See also RL, Wis. adm. code.

**440.035 General duties of examining boards and affiliated credentialing boards.** Each examining board or affiliated credentialing board attached to the department or an examining board shall:

(1) Independently exercise its powers, duties and functions prescribed by law with regard to rule-making, credentialing and regulation.

(2) Be the supervising authority of all personnel, other than shared personnel, engaged in the review, investigation or handling

of information regarding qualifications of applicants for credentials, examination questions and answers, accreditation, related investigations and disciplinary matters affecting persons who are credentialed by the examining board or affiliated credentialing board, or in the establishing of regulatory policy or the exercise of administrative discretion with regard to the qualifications or discipline of applicants or persons who are credentialed by the examining board, affiliated credentialing board or accreditation.

(3) Maintain, in conjunction with their operations, in central locations designated by the department, all records pertaining to the functions independently retained by them.

(4) Compile and keep current a register of the names and addresses of all persons who are credentialed to be retained by the department and which shall be available for public inspection during the times specified in s. 230.35 (4) (a). The department may also make the register available to the public by electronic transmission.

**History:** 1977 c. 418 ss. 25, 793, 929 (41); 1979 c. 32 s. 92 (1); 1979 c. 34; 1989 a. 56 s. 259; 1991 a. 39; 1993 a. 107; 1997 a. 27, 191, 237.

**440.04 Duties of the secretary.** The secretary shall: **(1)**

Centralize, at the capital and in such district offices as the operations of the department and the attached examining boards and affiliated credentialing boards require, the routine housekeeping functions required by the department, the examining boards and the affiliated credentialing boards.

(2) Provide the bookkeeping, payroll, accounting and personnel advisory services required by the department and the legal services, except for representation in court proceedings and the preparation of formal legal opinions, required by the attached examining boards and affiliated credentialing boards.

(5) With the advice of the examining boards or affiliated credentialing boards:

(a) Provide the department with such supplies, equipment, office space and meeting facilities as are required for the efficient operation of the department.

(b) Make all arrangements for meetings, hearings and examinations.

(c) Provide such other services as the examining boards or affiliated credentialing boards request.

(6) Appoint outside the classified service an administrator for any division established in the department and a director for any bureau established in the department as authorized in s. 230.08 (2). The secretary may assign any bureau director appointed in accordance with this subsection to serve concurrently as a bureau director and a division administrator.

(7) Unless otherwise specified in chs. 440 to 480, provide examination development, administration, research and evaluation services as required.

(8) Collect data related to the registration of speech-language pathologists and audiologists under subch. III of ch. 459 and, on January 15, 1993, report the data and recommendations on whether the licensure of speech-language pathologists and audiologists under subch. II of ch. 459 is appropriate to the chief clerk of each house of the legislature for distribution in the manner provided under s. 13.172 (2).

(9) Annually prepare and submit a report to the legislature under s. 13.172 (2) on the number of minority group members who applied for licensure as a certified public accountant under ch. 442, the number who passed the examination required for licensure as a certified public accountant and the number who were issued a certified public accountant license under ch. 442, during the preceding year.

**History:** 1977 c. 418 s. 26; 1979 c. 34; 1981 c. 20; 1985 a. 29; 1987 a. 27; 1989 a. 316; 1991 a. 39; 1993 a. 102, 107; 1995 a. 333.

**440.042 Advisory committees.** (1) The secretary may appoint persons or advisory committees to advise the department and the boards, examining boards and affiliated credentialing boards in the department on matters relating to the regulation of credential holders. The secretary shall appoint an advisory committee to advise the department on matters relating to carrying out the duties specified in s. 440.982 and making investigations, conducting hearings and taking disciplinary action under s. 440.986. A person or an advisory committee member appointed under this subsection shall serve without compensation, but may be reimbursed for his



or her actual and necessary expenses incurred in the performance of his or her duties.

(2) Any person who in good faith testifies before the department or any examining board, affiliated credentialing board or board in the department or otherwise provides the department or any examining board, affiliated credentialing board or board in the department with advice or information on a matter relating to the regulation of a person holding a credential is immune from civil liability for his or her acts or omissions in testifying or otherwise providing such advice or information. The good faith of any person specified in this subsection shall be presumed in any civil action and an allegation that such a person has not acted in good faith must be proven by clear and convincing evidence.

**History:** 1993 a. 16 ss. 3269, 3299; 1993 a. 107; 1997 a. 156; 1999 a. 32.

**440.045 Disputes.** Any dispute between an examining board or an affiliated credentialing board and the secretary shall be arbitrated by the governor or the governor's designee after consultation with the disputants.

**History:** 1977 c. 418 s. 27; 1979 c. 34; 1993 a. 107.

The relationship between the department, cosmetology examining board, and governor is discussed. 70 Atty. Gen. 172.

**440.05 Standard fees.** The following standard fees apply to all initial credentials, except as provided in ss. 440.42, 440.43, 440.44, 440.51, 444.03, 444.05, 444.11, 447.04 (2) (c) 2., 449.17, 449.18 and 459.46:

(1) (a) Initial credential: \$53. Each applicant for an initial credential shall pay the initial credential fee to the department when the application materials for the initial credential are submitted to the department.

(b) Examination: If an examination is required, the applicant shall pay an examination fee to the department. If the department prepares, administers, or grades the examination, the fee to the department shall be an amount equal to the department's best estimate of the actual cost of preparing, administering, or grading the examination. If the department approves an examination prepared, administered, and graded by a test service provider, the fee to the department shall be an amount equal to the department's best estimate of the actual cost of approving the examination, including selecting, evaluating, and reviewing the examination.

(2) Reciprocal credential, including any credential described in s. 440.01 (2) (d) and any credential that permits temporary practice in this state in whole or in part because the person holds a credential in another jurisdiction: The applicable credential renewal fee under s. 440.08 (2) (a) and, if an examination is required, an examination fee under sub.(1).

(6) Apprentice, journeyman, student or other temporary credential, granted pending completion of education, apprenticeship or examination requirements: \$10.

(7) Replacement of lost credential, name or address change on credential, issuance of duplicate credential or transfer of credential: \$10.

(9) Endorsement of persons who are credentialed to other states: \$10.

(10) Expedited service: If an applicant for a credential requests that the department process an application on an expedited basis, the applicant shall pay a service fee that is equal to the department's best estimate of the cost of processing the application on an expedited basis, including the cost of providing counter or other special handling services.

**History:** 1977 c. 29, 418; 1979 c. 34; 1979 c. 175 s. 53; 1979 c. 221 s. 2202 (45); 1983 a. 27; 1985 a. 29; 1987 a. 264, 265, 329, 399, 403; 1989 a. 31, 229, 307, 316, 336, 340, 341, 359; 1991 a. 39, 269, 278, 315; 1993 a. 16; 1995 a. 27; 1997 a. 27, 96; 1999 a. 9; 2001 a. 16.

**Cross reference:** See also ch. RL 4, Wis. adm. code.

**440.055 Credit card payments.** (2) If the department permits the payment of a fee with use of a credit card, the department shall charge a credit card service charge for each transaction. The credit card service charge shall be in addition to the fee that is being paid with the credit card and shall be sufficient to pay the costs to the department for providing this service to persons who request it, including the cost of any services for which the department contracts under sub.(3).

(3) The department may contract for services relating to the payment of fees by credit card under this section.

**History:** 1995 a. 27; 1999 a. 9.

**440.06 Refunds and reexaminations.** The secretary may establish uniform procedures for refunds of fees paid under s. 440.05 or 440.08 and uniform procedures and fees for reexaminations under chs. 440 to 480.

**History:** 1977 c. 418; 1979 c. 175 s. 53; 1979 c. 221 s. 2202 (45); 1991 a. 39; 1993 a. 102.

**Cross reference:** See also ch. RL 4, Wis. adm. code.

**440.07 Examination standards and services.** (1) In addition to the standards specified in chs. 440 to 480, examinations for credentials shall reasonably relate to the skills likely to be needed for an applicant to practice in this state at the time of examination and shall seek to determine the applicant's preparedness to exercise the skills.

(2) The department, examining board or affiliated credentialing board having authority to credential applicants may do any of the following:

(a) Prepare, administer and grade examinations.

(b) Approve, in whole or in part, an examination prepared, administered and graded by a test service provider.

(3) The department may charge a fee to an applicant for a credential who fails an examination required for the credential and requests a review of his or her examination results. The fee shall be based on the cost of the review. No fee may be charged for the review unless the amount of the fee or the procedure for determining the amount of the fee is specified in rules promulgated by the department.

**History:** 1987 a. 27; 1991 a. 39; 1993 a. 102, 107.

**Cross reference:** See also ch. RL 4, Wis. adm. code. Department of Regulation and Licensing test scores were subject to disclosure under the open records law. *Munroe v. Braatz*, 201 Wis. 2d 442, 549 N.W.2d 452 (Ct. App. 1996).

**440.08 Credential renewal.** (1) **NOTICE OF RENEWAL.** The department shall give a notice of renewal to each holder of a credential at least 30 days prior to the renewal date of the credential. Notice may be mailed to the last address provided to the department by the credential holder or may be given by electronic transmission. Failure to receive a notice of renewal is not a defense in any disciplinary proceeding against the holder or in any proceeding against the holder for practicing without a credential. Failure to receive a notice of renewal does not relieve the holder from the obligation to pay a penalty for late renewal under sub.(3).

(2) **RENEWAL DATES, FEES AND APPLICATIONS.** (a) Except as provided in par.(b) and in ss. 440.51, 442.04, 444.03, 444.05, 444.11, 448.065, 447.04 (2) (c) 2., 449.17, 449.18 and 459.46, the renewal dates and renewal fees for credentials are as follows:

1. Accountant, certified public: January 1 of each even-numbered year; \$59.

3. Accounting corporation or partnership: January 1 of each even-numbered year; \$56.

4. Acupuncturist: July 1 of each odd-numbered year; \$70.

4m. Advanced practice nurse prescriber: October 1 of each even-numbered year; \$73.

5. Aesthetics instructor: July 1 of each odd-numbered year; \$87.

6. Aesthetics establishment: July 1 of each odd-numbered year; \$70.

7. Aesthetics instructor: July 1 of each odd-numbered year; \$70.

8. Aesthetics school: July 1 of each odd-numbered year; \$115.

9. Aesthetics specialty school: July 1 of each odd-numbered year; \$53.

11. Appraiser, real estate, certified general: January 1 of each even-numbered year; \$162.

11m. Appraiser, real estate, certified residential: January 1 of each even-numbered year; \$167.

12. Appraiser, real estate, licensed: January 1 of each even-numbered year; \$185.

13. Architect: August 1 of each even-numbered year; \$60.

14. Architectural or engineering firm, partnership or corporation: February 1 of each even-numbered year; \$70.

14f. Athletic trainer: July 1 of each even-numbered year; \$53.

14g. Auction company: January 1 of each odd-numbered year; \$56.

14r. Auctioneer: January 1 of each odd-numbered year; \$174.

15. Audiologist: February 1 of each odd-numbered year; \$106.

16. Barbering or cosmetology establishment: July 1 of each odd-numbered year; \$56.

17. Barbering or cosmetology instructor: July 1 of each odd-numbered year; \$91.
18. Barbering or cosmetology manager: July 1 of each odd-numbered year; \$71.
19. Barbering or cosmetology school: July 1 of each odd-numbered year; \$138.
20. Barber or cosmetologist: July 1 of each odd-numbered year; \$63.
21. Cemetery authority: January 1 of each odd-numbered year; \$343.
22. Cemetery preneed seller: January 1 of each odd-numbered year; \$61.
23. Cemetery salesperson: January 1 of each odd-numbered year; \$90.
- 23m. Charitable organization: August 1 of each year; \$15.
24. Chironractor: January 1 of each odd-numbered year; \$168.
25. Dental hygienist: October 1 of each odd-numbered year; \$57.
26. Dentist: October 1 of each odd-numbered year; \$131.
- 26m. Dentist, faculty member: October 1 of each odd-numbered year; \$131.
27. Designer of engineering systems: February 1 of each even-numbered year; \$58.
- 27m. Dietitian: November 1 of each even-numbered year; \$56.
28. Drug distributor: June 1 of each even-numbered year; \$70.
29. Drug manufacturer: June 1 of each even-numbered year; \$70.
30. Electrologist: July 1 of each odd-numbered year; \$76.
31. Electrology establishment: July 1 of each odd-numbered year; \$56.
32. Electrology instructor: July 1 of each odd-numbered year; \$86.
33. Electrology school: July 1 of each odd-numbered year; \$71.
34. Electrology specialty school: July 1 of each odd-numbered year; \$53.
35. Engineer, professional: August 1 of each even-numbered year; \$58.
- 35m. Fund-raising counsel: September 1 of each even-numbered year; \$53.
36. Funeral director: January 1 of each even-numbered year; \$135.
37. Funeral establishment: June 1 of each odd-numbered year; \$56.
38. Hearing instrument specialist: February 1 of each odd-numbered year; \$106.
- 38g. Home inspector: January 1 of each odd-numbered year; \$53.
- 38m. Landscape architect: August 1 of each even-numbered year; \$56.
39. Land surveyor: February 1 of each even-numbered year; \$77.
42. Manicuring establishment: July 1 of each odd-numbered year; \$53.
43. Manicuring instructor: July 1 of each odd-numbered year; \$53.
44. Manicuring school: July 1 of each odd-numbered year; \$118.
45. Manicuring specialty school: July 1 of each odd-numbered year; \$53.
46. Manicurist: July 1 of each odd-numbered year; \$133.
- 46m. Marriage and family therapist: July 1 of each odd-numbered year; \$84.
- 46r. Massage therapist or bodyworker: March 1 of each odd-numbered year; \$53.
- NOTE: Subd. 46r. is created eff. 3-1-03 by 2001 Wis. Act 74.
48. Nurse, licensed practical: May 1 of each odd-numbered year; \$69.
49. Nurse, registered: March 1 of each even-numbered year; \$66.
50. Nurse-midwife: March 1 of each even-numbered year; \$70.
51. Nursing home administrator: July 1 of each even-numbered year; \$120.
52. Occupational therapist: November 1 of each odd-numbered year; \$59.
53. Occupational therapy assistant: November 1 of each odd-numbered year; \$62.
54. Optometrist: January 1 of each even-numbered year; \$65.
- 54m. Perfusionist: November 1 of each odd-numbered year; \$56.
55. Pharmacist: June 1 of each even-numbered year; \$97.
56. Pharmacy: June 1 of each even-numbered year; \$56.
57. Physical therapist: November 1 of each odd-numbered year; \$62.
- 57m. Physical therapist assistant: November 1 of each odd-numbered year; \$44.
- NOTE: Subd. 57m. is created eff. 4-1-04 by 2001 Wis. Act 70.
58. Physician: November 1 of each odd-numbered year; \$106.
59. Physician assistant: November 1 of each odd-numbered year; \$72.
60. Podiatrist: November 1 of each odd-numbered year; \$150.
61. Private detective: September 1 of each even-numbered year; \$101.
62. Private detective agency: September 1 of each even-numbered year; \$53.
63. Private practice school psychologist: October 1 of each odd-numbered year; \$103.
- 63g. Private security person: September 1 of each even-numbered year; \$53.
- 63m. Professional counselor: July 1 of each odd-numbered year; \$76.
- 63t. Professional fund-raiser: September 1 of each even-numbered year; \$93.
- 63u. Professional geologist: August 1 of each even-numbered year; \$59.
- 63v. Professional geology, hydrology or soil science firm, partnership or corporation: August 1 of each even-numbered year; \$53.
- 63w. Professional hydrologist: August 1 of each even-numbered year; \$53.
- 63x. Professional soil scientist: August 1 of each even-numbered year; \$53.
64. Psychologist: October 1 of each odd-numbered year; \$157.
65. Real estate broker: January 1 of each odd-numbered year; \$128.
66. Real estate business entity: January 1 of each odd-numbered year; \$56.
67. Real estate salesperson: January 1 of each odd-numbered year; \$83.
- 67m. Registered interior designer: August 1 of each even-numbered year; \$56.
- 67q. Registered massage therapist or bodyworker: March 1 of each odd-numbered year; \$53.
- NOTE: Subd. 67q. is repealed eff. 3-1-03 by 2001 Wis. Act 74.
- 67v. Registered music, art or dance therapist: October 1 of each odd-numbered year; \$53.
- 67x. Registered music, art, or dance therapist with psychotherapy license: October 1 of each odd-numbered year; \$53.
68. Respiratory care practitioner: November 1 of each odd-numbered year; \$65.
- 68d. Social worker: July 1 of each odd-numbered year; \$63.
- 68h. Social worker, advanced practice: July 1 of each odd-numbered year; \$70.
- 68p. Social worker, independent: July 1 of each odd-numbered year; \$58.
- 68t. Social worker, independent clinical: July 1 of each odd-numbered year; \$73.
- 68v. Speech-language pathologist: February 1 of each odd-numbered year; \$63.
69. Time-share salesperson: January 1 of each odd-numbered year; \$119.
70. Veterinarian: January 1 of each even-numbered year; \$105.
71. Veterinary technician: January 1 of each even-numbered year; \$58.
- (b) The renewal fee for an apprentice, journeyman, student or temporary credential is \$10. The renewal dates specified in par.(a) do not apply to apprentice, journeyman, student or temporary credentials.
- (c) Except as provided in sub.(3), renewal applications shall include the applicable renewal fee specified in pars.(a) and (b).
- (d) If an applicant for credential renewal requests that the department process an application on an expedited basis, the

applicant shall pay a service fee that is equal to the department's best estimate of the cost of processing the application on an expedited basis, including the cost of providing counter or other special handling services.

**(3) LATE RENEWAL.**(a) Except as provided in rules promulgated under par.(b), if the department does not receive an application to renew a credential before its renewal date, the holder of the credential may restore the credential by payment of the applicable renewal fee specified in sub.(2) (a) and by payment of a late renewal fee of \$25.

(b) The department or the interested examining board or affiliated credentialing board, as appropriate, may promulgate rules requiring the holder of a credential who fails to renew the credential within 5 years after its renewal date to complete requirements in order to restore the credential, in addition to the applicable requirements for renewal established under chs. 440 to 480, that the department, examining board or affiliated credentialing board determines is necessary to protect the public health, safety or welfare. The rules may not require the holder to complete educational requirements or pass examinations that are more extensive than the educational or examination requirements that must be completed in order to obtain an initial credential from the department, the examining board or the affiliated credentialing board.

**(4) DENIAL OF CREDENTIAL RENEWAL.**(a) *Generally.* If the department or the interested examining board or affiliated credentialing board, as appropriate, determines that an applicant for renewal has failed to comply with sub.(2) (c) or (3) or with any other applicable requirement for renewal established under chs. 440 to 480 or that the denial of an application for renewal of a credential is necessary to protect the public health, safety or welfare, the department, examining board or affiliated credentialing board may summarily deny the application for renewal by mailing to the holder of the credential a notice of denial that includes a statement of the facts or conduct that warrant the denial and a notice that the holder may, within 30 days after the date on which the notice of denial is mailed, file a written request with the department to have the denial reviewed at a hearing before the department, if the department issued the credential, or before the examining board or affiliated credentialing board that issued the credential.

(b) *Applicability.* This subsection does not apply to a denial of a credential renewal under s. 440.12 or 440.13 (2) (b).

**History:** 1991 a. 39 ss. 3305, 3313; 1991 a. 78, 160, 167, 269, 278, 315; 1993 a. 3, 16, 102, 105, 107, 443, 463, 465; 1993 a. 490 ss. 228 to 230, 274, 275; 1995 a. 27, 233, 321, 322, 461; 1997 a. 27, 75, 81, 96, 156, 191, 237, 261, 300; 1999 a. 9, 32; 2001 a. 16, 70, 74, 80, 89.

**440.11 Change of name or address.** (1) An applicant for or recipient of a credential who changes his or her name or moves from the last address provided to the department shall notify the department of his or her new name or address within 30 days of the change in writing or in accordance with other notification procedures approved by the department.

(2) The department or any examining board, affiliated credentialing board or board in the department may serve any process, notice or demand on the holder of any credential by mailing it to the last-known address of the holder as indicated in the records of the department, examining board, affiliated credentialing board or board.

(3) Any person who fails to comply with sub.(1) shall be subject to a forfeiture of \$50.

**History:** 1987 a. 27; 1991 a. 39; 1993 a. 107; 1997 a. 27.

**440.12 Credential denial, nonrenewal and revocation based on tax delinquency.** Notwithstanding any other provision of chs. 440 to 480 relating to issuance or renewal of a credential, the department shall deny an application for an initial credential or credential renewal or revoke a credential if the department of revenue certifies under s. 73.0301 that the applicant or credential holder is liable for delinquent taxes, as defined in s. 73.0301 (1) (c).

**History:** 1997 a. 237.

**Cross reference:** See also ch. RL 9, Wis. adm. code.

**440.13 Delinquency in support payments; failure to comply with subpoena or warrant.** (1) In this section:

(b) "Memorandum of understanding" means a memorandum of understanding entered into by the department of regulation and licensing and the department of workforce development under s. 49.857.

(c) "Support" has the meaning given in s. 49.857 (1) (g).

(2) Notwithstanding any other provision of chs. 440 to 480 relating to issuance of an initial credential or credential renewal, as provided in the memorandum of understanding:

(a) With respect to a credential granted by the department, the department shall restrict, limit or suspend a credential or deny an application for an initial credential or for reinstatement of an inactive license under s. 452.12 (6) (e) if the credential holder or applicant is delinquent in paying support or fails to comply, after appropriate notice, with a subpoena or warrant issued by the department of workforce development or a county child support agency under s. 59.53 (5) and related to support or paternity proceedings.

(b) With respect to credential renewal, the department shall deny an application for renewal if the applicant is delinquent in paying support or fails to comply, after appropriate notice, with a subpoena or warrant issued by the department of workforce development or a county child support agency under s. 59.53 (5) and related to support or paternity proceedings.

(c) With respect to a credential granted by a credentialing board, a credentialing board shall restrict, limit or suspend a credential held by a person or deny an application for an initial credential when directed to do so by the department.

**History:** 1997 a. 191, 237.

#### **440.14 Nondisclosure of certain personal information.**

(1) In this section: (a) "List" means information compiled or maintained by the department or a credentialing board that contains the personal identifiers of 10 or more individuals.

(b) "Personal identifier" means a name, social security number, telephone number, street address, post-office box number or 9--digit extended zip code.

(2) If a form that the department or a credentialing board requires an individual to complete in order to apply for a credential or credential renewal or to obtain a product or service from the department or the credentialing board requires the individual to provide any of the individual's personal identifiers, the form shall include a place for the individual to declare that the individual's personal identifiers obtained by the department or the credentialing board from the information on the form may not be disclosed on any list that the department or the credentialing board furnishes to another person.

(3) If the department or a credentialing board requires an individual to provide, by telephone or other electronic means, any of the individual's personal identifiers in order to apply for a credential or credential renewal or to obtain a product or service from the department or a credentialing board, the department or the credentialing board shall ask the individual at the time that the individual provides the information if the individual wants to declare that the individual's personal identifiers obtained by telephone or other electronic means may not be disclosed on any list that the department or the credentialing board furnishes to another person.

(4) The department or a credentialing board shall provide to an individual upon request a form that includes a place for the individual to declare that the individual's personal identifiers obtained by the department or credentialing board may not be disclosed on any list that the department or credentialing board furnishes to another person.

(5) (a) The department or a credentialing board may not disclose on any list that it furnishes to another person a personal identifier of any individual who has made a declaration under sub.(2), (3) or (4).

(b) Paragraph (a) does not apply to a list that the department or a credentialing board furnishes to another state agency, a law enforcement agency or a federal governmental agency. In addition, par.(a) does not apply to a list that the department or the board of nursing furnishes to the coordinated licensure information system under s. 441.50 (7). A state agency that receives a list from the department or a credentialing board containing a personal identifier of any individual who has made a declaration under sub.(2), (3) or (4) may not disclose the personal

identifier to any person other than a state agency, a law enforcement agency or a federal governmental agency.

History: 1999 a. 88; 2001 a. 66.

**440.142 Reporting potential causes of public health emergency.** (1) A pharmacist or pharmacy shall report to the department of health and family services all of the following:

(a) An unusual increase in the number of prescriptions dispensed or nonprescription drug products sold for the treatment of medical conditions specified by the department of health and family services by rule under s. 252.02 (7).

(b) An unusual increase in the number of prescriptions dispensed that are antibiotic drugs.

(c) The dispensing of a prescription for treatment of a disease that is relatively uncommon or may be associated with bioterrorism, as defined in s. 166.02(1r).

(2) (a) Except as provided in par.(b), a pharmacist or pharmacy may not report personally identifying information concerning an individual who is dispensed a prescription or who purchases a nonprescription drug product as specified in sub.(1) (a), (b), or (c).

(b) Upon request by the department of health and family services, a pharmacist or pharmacy shall report to that department personally identifying information other than a social security number concerning an individual who is dispensed a prescription or who purchases a nonprescription drug product as specified in sub.(1) (a), (b), or (c).

History: 2001 a. 109.

**440.20 Disciplinary proceedings.** (1) Any person may file a complaint before the department or any examining board, affiliated credentialing board or board in the department and request the department, examining board, affiliated credentialing board or board to commence disciplinary proceedings against any holder of a credential.

(3) The burden of proof in disciplinary proceedings before the department or any examining board, affiliated credentialing board or board in the department is a preponderance of the evidence.

(4) In addition to any grounds for discipline specified in chs. 440 to 480, the department or appropriate examining board, affiliated credentialing board or board in the department may reprimand the holder of a credential or deny, limit, suspend or revoke the credential of any person who intentionally violates s. 252.14 (2) or intentionally discloses the results of a blood test in violation of s. 252.15 (5) (a) or (5m).

History: 1977 c. 418; 1979 c. 34; 1985 a. 29; 1989 a. 31, 201; 1991 a. 39; 1993 a. 16, 27, 102, 107, 490.

The constitutionality of sub.(3) is upheld. *Gandhi v. Medical Examining Board*, 168 Wis. 2d 299, 483 N.W.2d 295 (Ct. App. 1992).

A hearing is not required for a complaint filed under this section. 68 Att'y. Gen. 30.

The "preponderance of the evidence" burden of proof under sub.(3) does not violate the due process rights of a licensee. 75 Att'y. Gen. 76.

**440.205 Administrative warnings.** If the department or a board, examining board or affiliated credentialing board in the department determines during an investigation that there is evidence of misconduct by a credential holder, the department, board, examining board or affiliated credentialing board may close the investigation by issuing an administrative warning to the credential holder. The department or a board, examining board or affiliated credentialing board may issue an administrative warning under this section only if the department or board, examining board or affiliated credentialing board determines that no further action is warranted because the complaint involves a first occurrence of a minor violation and the issuance of an administrative warning adequately protects the public by putting the credential holder on notice that any subsequent violation may result in disciplinary action. If an administrative warning is issued, the credential holder may obtain a review of the administrative warning through a personal appearance before the department, board, examining board or affiliated credentialing board that issued the administrative warning. Administrative warnings do not constitute an adjudication of guilt or the imposition of discipline and may not be used as evidence that the credential holder is guilty of the alleged misconduct. However, if a subsequent allegation of misconduct by the credential holder is received by the department or a board, examining board or affiliated credentialing board in the department, the matter relating to the issuance of the administrative warning may be reopened and

disciplinary proceedings may be commenced on the matter, or the administrative warning may be used in any subsequent disciplinary proceeding as evidence that the credential holder had actual knowledge that the misconduct that was the basis for the administrative warning was contrary to law. The record that an administrative warning was issued shall be a public record. The contents of the administrative warning shall be private and confidential. The department shall promulgate rules establishing uniform procedures for the issuance and use of administrative warnings.

History: 1997 a. 139.

Cross reference: See also ch. RL 8, Wis. adm. code.

**440.21 Enforcement of laws requiring credential.** (1) The department may conduct investigations, hold hearings and make findings as to whether a person has engaged in a practice or used a title without a credential required under chs. 440 to 480.

(2) If, after holding a public hearing, the department determines that a person has engaged in a practice or used a title without a credential required under chs. 440 to 480, the department may issue a special order enjoining the person from the continuation of the practice or use of the title.

(3) In lieu of holding a public hearing, if the department has reason to believe that a person has engaged in a practice or used a title without a credential required under chs. 440 to 480, the department may petition the circuit court for a temporary restraining order or an injunction as provided in ch. 813.

(4) (a) Any person who violates a special order issued under sub.(2) may be required to forfeit not more than \$10,000 for each offense. Each day of continued violation constitutes a separate offense. The attorney general or any district attorney may commence an action in the name of the state to recover a forfeiture under this paragraph.

(b) Any person who violates a temporary restraining order or an injunction issued by a court upon a petition under sub.(3) may be fined not less than \$25 nor more than \$5,000 or imprisoned for not more than one year in the county jail or both.

History: 1991 a. 39; 1993 a. 102.

Cross reference: See also ch. RL 3, Wis. adm. code.

**440.22 Assessment of costs.** (1) This section, "costs of the proceeding" means the compensation and reasonable expenses of hearing examiners and of prosecuting attorneys for the department, examining board or affiliated credentialing board, a reasonable disbursement for the service of process or other papers, amounts actually paid out for certified copies of records in any public office, postage, telephoning, adverse examinations and depositions and copies, expert witness fees, witness fees and expenses, compensation and reasonable expenses of experts and investigators, and compensation and expenses of a reporter for recording and transcribing testimony.

(2) In any disciplinary proceeding against a holder of a credential in which the department or an examining board, affiliated credentialing board or board in the department orders suspension, limitation or revocation of the credential or reprimands the holder, the department, examining board, affiliated credentialing board or board may, in addition to imposing discipline, assess all or part of the costs of the proceeding against the holder. Costs assessed under this subsection are payable to the department. Interest shall accrue on costs assessed under this subsection at a rate of 12% per year beginning on the date that payment of the costs are due as ordered by the department, examining board, affiliated credentialing board or board. Upon the request of the department of regulation and licensing, the department of justice may commence an action to recover costs assessed under this subsection and any accrued interest.

(3) In addition to any other discipline imposed, if the department, examining board, affiliated credentialing board or board assesses costs of the proceeding to the holder of the credential under sub.(2), the department, examining board, affiliated credentialing board or board may not restore, renew or otherwise issue any credential to the holder until the holder has made payment to the department under sub.(2) in the full amount assessed, together with any accrued interest.

History: 1987 a. 27; 1991 a. 39; 1993 a. 107; 1997 a. 27.

The collection of costs assessed under this section may not be pursued in an independent action for a money judgment. The costs may be collected only as a

condition of reinstatement of the disciplined practitioner's credentials. *State v. Dunn*, 213 Wis. 2d 363, 570 N.W.2d 614 (Ct. App. 1997).

**440.23 Cancellation of credential; reinstatement.** (1) If the holder of a credential pays a fee required under s. 440.05 (1) or (6), 440.08, 444.03, 444.05, 444.11 or 459.46 (2) (b) by check or debit or credit card and the check is not paid by the financial institution upon which the check is drawn or if the demand for payment under the debit or credit card transaction is not paid by the financial institution upon which demand is made, the department may cancel the credential on or after the 60th day after the department receives the notice from the financial institution, subject to sub.(2).

(2) At least 20 days before canceling a credential, the department shall mail a notice to the holder of the credential that informs the holder that the check or demand for payment under the debit or credit card transaction was not paid by the financial institution and that the holder's credential may be canceled on the date determined under sub.(1) unless the holder does all of the following before that date:

(a) Pays the fee for which the unpaid check or demand for payment under the credit or debit card transaction was issued.

(b) If the fee paid under par.(a) is for renewal and the credential has expired, pays the applicable penalty for late renewal specified in s. 440.08 (3).

(c) Pays the charge for an unpaid draft established by the depository selection board under s. 20.905 (2).

(3) Nothing in sub.(1) or (2) prohibits the department from extending the date for cancellation to allow the holder additional time to comply with sub.(2) (a) to (c).

(4) A cancellation of a credential under this section completely terminates the credential and all rights, privileges and authority previously conferred by the credential.

(5) The department may reinstate a credential that has been canceled under this section only if the previous holder complies with sub.(2) (a) to (c) and pays a \$30 reinstatement fee.

**History:** 1989 a. 31; 1991 a. 39, 189,269,278, 315; 1993 a. 16; 1995 a. 27; 1999 a. 9.

**440.25 Judicial review.** The department may seek judicial review under ch. 227 of any final disciplinary decision of the medical examining board or affiliated credentialing board attached to the medical examining board. The department shall be represented in such review proceedings by an attorney within the department. Upon request of the medical examining board or the interested affiliated credentialing board, the attorney general may represent the board. If the attorney general declines to represent the board, the board may retain special counsel which shall be paid for out of the appropriation under s. 20.165 (1) (g).

**History:** 1985 a. 340; 1993 a. 107.

## CHAPTER 442

## ACCOUNTING EXAMINING BOARD

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442.12	Disciplinary action.
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Cross-reference: See definitions in s. 440.01.

#### 442.001 Definitions. In this chapter:

(1) "Attest service" means any of the following:

(a) An audit or any other engagement that is performed or intended to be performed in accordance with rules promulgated under s. 442.01 (1) (a).

(b) A review of a financial statement that is performed or intended to be performed in accordance with rules promulgated under s. 442.01 (1) (b).

(c) An examination of prospective financial information that is performed or intended to be performed in accordance with rules promulgated under s. 442.01 (1) (c).

(3) "Examining board" means the accounting examining board.

(4) "Firm" means a proprietorship, partnership, limited liability partnership, corporation, service corporation, or limited liability company.

(5) "Member of a firm" means a director, manager, employee, officer, owner, shareholder, principal, or partner of a firm.

History: 1999 a. 85 s. S6; 2001 a. 16.

#### 442.01 Examining board; duties. (1) The examining board shall promulgate rules that adopt by reference all of the following:

(a) The statements on auditing standards issued by the Auditing Standards Board of the American Institute of Certified Public Accountants.

(h) The statements on standards for accounting and review services issued by the Accounting and Review Services Committee of the American Institute of Certified Public Accountants.

(c) The statements on standards for attestation engagements issued by the Auditing Standards Board, the Accounting and Review Services Committee, and the Consulting Services Executive Committee of the American Institute of Certified Public Accountants.

(2) No standard or rule relating to professional conduct or unethical practice may be adopted until the examining board has held a public hearing with reference thereto, subject to the rules promulgated under s. 440.03 (1). No rule or standard shall become effective until 60 days after its adoption by the examining board. Any person who has appeared at the public hearing and filed written protest against any proposed standard or rule may, upon the adoption of such standard or rule, obtain a review thereof under ch. 227. Thereafter every person practicing as a certified public accountant in the state shall be governed and controlled by the rules and standards prescribed by the examining board.

(3) The examining board shall record its proceedings.

History: 1977c.418; 1981 c. 356; 1983a.27; 1991 a. 39; 1999 a. 85; 2001 a. 16.  
Cross Reference: See also Accy, Wis. adm. code.

#### 442.02 Certified public accountant, definition. (1m) A person shall be considered to be in practice as a certified public

accountant, within the meaning and intent of this chapter, if any of the following conditions is met:

(a) The person holds himself or herself out to the public in any manner as one skilled in the knowledge, science, and practice of accounting, and as qualified and ready to render professional service therein as a certified public accountant for compensation.

(b) The person maintains an office for the transaction of business as a certified public accountant or, except as an employee of a certified public accountant, practices accounting, as distinguished from bookkeeping, for more than one employer.

(c) The person offers to prospective clients to perform for compensation, or performs on behalf of clients for compensation, professional services that involve or require an audit of financial transactions and accounting records.

(d) The person prepares for clients reports of audits, balance sheets, and other financial, accounting and related schedules, exhibits, Statements or reports that are to be used for publication or for credit purposes, or are to be filed with a court of law or with any other governmental agency, or for any other purpose.

(dm) The person provides or offers to provide an attest service.

(e) The person, in general or as an incident to such work, renders professional assistance to clients for compensation in any or all matters relating to accounting procedure and the recording and presentation of financial facts.

(f) The person signs or affixes his or her name or any trade or assumed name used by the person in his or her business or profession to an opinion or certificate attesting to the reliability of any representation or estimate in regard to any person or organization embracing financial information, financial transactions or accounting records.

(5m) Subsection (1m) (f) does not prohibit any officer, employee, partner, or principal of any organization from affixing his or her signature to any statement or report in reference to the affairs of that organization with any wording designating the position, title, or office that he or she holds in that organization.

(6) Every member of a firm who, as a member of the firm, does any of the things enumerated in sub. (1m) (a) to (f), shall be considered to be in practice as a certified public accountant.

History: 1979 c. 162 ss. 7.38 (7), (9); 1999 a. 85; 2001 a. 16.

#### 442.025 Applicability. This chapter does not require a certificate or license under this chapter for any of the following:

(1) Persons employed by a certified public accountant or firm licensed under this chapter to serve as accountants in various capacities, as needed, if all of the following conditions are met:

(a) The employees serving as accountants work under the control and supervision of certified public accountants.

(b) The employees serving as accountants do not issue any statements or reports over their own names except office reports to their employer that are customary.

(c) The employees serving as accountants are not in any manner held out to the public as certified public accountants.

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(2) A practicing attorney, who, in connection with his or her professional work renders any accounting service.

(3) A person employed by more than one person for the purpose of keeping books, making trial balances, or statements, and preparing reports, if all of the following requirements are met:

(a) The reports described in this subsection are not used or issued by the employers as having been prepared by a certified public accountant.

(b) The persons employed as described in this subsection do not do any of the things enumerated in s. 442.02 (1 m) (f) except as authorized under s. 442.02 (5m).

(4) The holders of state-granted certified public accountant certificates from other states who may be temporarily in this state on professional business incident to their regular practice in the states of their domicile, but with neither residence nor office in this state.

(5) A public official or public employee in performing his or her duties.

(6) A person who performs services involving the use of accounting skills, including management advisory services, the preparation of tax returns, and the preparation of financial statements without issuing reports on the statements.

(7) A person who prepares financial statements and issues information thereon that does not purport to be in compliance with the statement on standards for accounting and review services issued by the American Institute of Certified Public Accountants.

**History:** 2001 a. 16 ss. 3606rd to 3606rL.

**442.03 Licenses required.** No person may lawfully practice in this state as a certified public accountant either in the person's own name, or under an assumed name, or as a member of a firm, unless the person has been granted by the examining board a certificate as a certified public accountant, and unless the person and firm have complied with all of the provisions of this chapter, including licensure.

**History:** 1977 c. 29; 1981 c. 356; 1991 a. 39; 2001 a. 16.

### 442.04 Certified public accountants; qualifications.

(1) The examining board shall grant a certificate as a certified public accountant to all persons who become entitled thereto under this section and s. 442.05. A certificate is permanent unless revoked and not subject to periodic renewal.

(2) Examinations shall be held by the examining board at least once in each year at such times and places as are determined by the examining board. Notice of the time and place of each examination shall be published, as a class 2 notice, under ch. 985, in at least one daily newspaper published in the city of Milwaukee, and in at least one daily newspaper published in the city of Madison, with the last insertion not less than 30 days prior to the date of such examination. Not less than 30 days prior to each examination, each applicant who has made inquiry prior to the first insertion, shall be notified by mail by the department, at the address mentioned in the application, of the time and place of the examination.

(4) (a) In this subsection, "institution" means a bachelor's degree-granting institution of higher education accredited by the commission on institutions of higher education of the north central association of colleges and schools or its regional equivalent.

(bm) A person may not take the examination leading to the certificate to practice as a certified public accountant unless the person has completed at least 150 semester hours of education with an accounting concentration at an institution, and has received a bachelor's or higher degree with an accounting concentration from an institution, except as provided in par. (c).

(c) If an applicant has a bachelor's or higher degree from an institution but does not have an accounting concentration required in par. (bm), the examining board may review such other educational experience from an institution as the applicant presents and, if the examining board determines that such other experience provides the reasonable equivalence of an accounting concentration

required in par. (bm), the examining board shall approve the applicant for examination.

(5) The examining board may not grant a certificate as a certified public accountant to any person other than a person who is 18 years of age or older, does not have an arrest or conviction record, subject to ss. 111.321, 111.322, and 111.335, and, except as provided in s. 442.05, has successfully passed an examination in such subjects affecting accountancy as the examining board considers necessary. The examining board may not grant the certificate unless the applicant has at least one year of public accounting experience or its equivalent, the sufficiency of the experience or the equivalency to be judged by the examining board. The examining board shall ensure that evaluation procedures and examinations are nondiscriminatory, relate directly to accountancy, and are designed to measure only the ability to perform competently as an accountant. The examining board may use the examination service provided by the American Institute of Certified Public Accountants.

**History:** 1975 c. 223; 1977 c. 219, 418; 1979 c. 337; 1981 c. 356, 380, 391; 1995 a. 333; 2001 a. 16.

**Cross Reference:** See also ss. Accy 7.01 and 8.01, Wis. adm. code.

**442.05 Certification by endorsement.** The examining board may grant a certificate to any applicant who is the holder of a certificate or license to practice as a certified public accountant issued under the laws of any other state or foreign country. The applicant must also establish his or her substantial equivalence of the qualifications required under s. 442.04. The sufficiency of the substantial equivalence shall be judged by the examining board. Upon denial of a certificate under this subsection the examining board shall notify the applicant in writing of the decision, stating the reason for denial and that the applicant has the right to a hearing if a written request is filed with the examining board within 30 days after the notice of denial. Service of the notice of denial may be made by mail addressed to the applicant at the latest address filed by the applicant in writing with the examining board. Service by mail is complete on the date of mailing.

**History:** 3975 c. 318; 1981 c. 356.

**Cross Reference:** See also s. Accy 8.01, Wis. adm. code.

**442.07 Requirements for practice as certified public accountant.** (1) Any person who has been issued a certificate of the person's qualifications to practice as a certified public accountant, shall be styled and known as a "certified public accountant" and no other person shall assume to use such title or the abbreviation "C.P.A." or any other word, words, letters, or figures to indicate that the person using the same is a certified public accountant. The terms "chartered accountant" and "certified accountant" and the abbreviation "C.A." are specifically prohibited to such other persons as being prima facie misleading to the public.

(3) Any firm that is entitled to practice as certified public accountants in this state or any other state and every resident member of the firm who is a certified public accountant of this state, after registering the firm name with the examining board, may use the designation "certified public accountants" in connection with the firm name.

**History:** 1977 c. 29; 1981 c. 356; 1991 a. 316; 2001 a. 16.

**442.08 Licensure.** (1) The department shall issue a license to an individual who holds an unrevoked certificate as a certified public accountant, submits an application for the license on a form provided by the department, and pays the fee specified in s. 440.05 (1).

(2) The department shall issue a license to a firm that submits an application for the license on a form provided by the department, pays the fee specified in s. 440.05 (1), and does each of the following:

(a) Identifies each office of the firm that is located in this state.

(b) If any person who holds an ownership interest in the firm is not licensed under sub. (1), designates an individual licensed

under sub. (1) as the individual responsible for the firm's compliance with this chapter.

(c) Demonstrates, to the satisfaction of the department, each of the following:

1. That all attest services provided by the firm in this state are under the charge of an individual licensed under sub. (1).

2. That more than 50% of the ownership interest of the firm is held by individuals who hold certificates or licenses to practice as a certified public accountant issued under the laws of any state or foreign country.

3. That each person who holds an ownership interest in the firm, and who does not hold a certificate or license to practice as a certified public accountant, is an individual who actively participates in the firm or an affiliated entity.

(3) The examining board shall promulgate rules that define "ownership interest" for purposes of sub. (2) and for determining the percentage of a person's ownership interest in a firm. In promulgating the rules, the examining board shall consider the financial interests and voting rights of all members of a firm.

History: 1977 c. 29; 1981 c. 356; 1991 a. 39; 2001 a. 16.

**442.083 Renewal.** The renewal dates and renewal fees for licenses issued under this chapter are specified under s. 440.08 (2) (a). The department may not renew a license issued to a firm unless, at the time of renewal, the firm satisfies the requirements under s. 442.08 (2) and demonstrates, to the satisfaction of the department, that the firm has complied with the requirements under s. 442.087.

History: 2001 a. 16.

**442.087 Peer review. (1) DEFINITION.** In this section, "peer review" means a process for a person licensed under this chapter to evaluate the professional competency of the members of a firm who are responsible for attest services provided by the firm or who sign or authorize another individual to sign accounting reports or financial statements on behalf of the firm.

(2) **RENEWAL OF FIRM LICENSES.** After January 1, 2005, the department may not renew the license of a firm unless, at least once every 3 years, the firm undergoes the peer review that is specified in the rules promulgated under sub. (3) and that is conducted by a person, approved by the examining board under the rules, who is not affiliated with the firm or members of the firm undergoing review.

(3) **RULES.** The examining board shall promulgate rules that describe the peer review required to renew a firm's license under sub. (2). The rules shall include requirements for the examining board to approve one or more persons to conduct the peer reviews. The rules shall also require each person approved by the examining board to conduct peer reviews to periodically report to the examining board on the effectiveness of the peer reviews conducted by the person and to provide the examining board with a listing of all firms that have undergone peer review conducted by the person.

(4) **CONFIDENTIALITY.** A person approved by the examining board to conduct peer reviews may not disclose to any person, including the examining board or the department, any information obtained or document produced during the course of or as a result of a review unless the firm undergoing the review consents to the disclosure.

History: 2001 a. 16, 104.

**442.09 Fees.** The fees for examination and licenses granted or renewed under this chapter are specified in ss. 440.05 and 440.08.

History: 1971 c. 125; 1977 c. 29; 1991 a. 39.

**442.10 Disclosure of interest in entity reported on.**

(1) Whenever any person, as a certified public accountant, signs or certifies any report, schedule, or statement relative to the affairs of any corporation, association, or partnership in which the person is financially interested or by which the person is regularly

engaged as an officer or employee, the signature or certification shall be accompanied by a specific statement setting forth the fact that the person is financially interested in or is an officer or regular employee of the corporation, association, or partnership. If the person is both financially interested and an officer or regular employee, the statement shall cover both financial interest and employment. In the case of a firm signing or certifying as described in this subsection, the interest of any of its members shall be disclosed.

(2) Notwithstanding sub. (1), no person licensed under this chapter, and no firm of which the person is a member, may express an opinion as an independent certified public accountant on financial statements of any enterprise unless the person and the firm are independent of the enterprise. The requirement for independence under this subsection also extends to the spouse of such a person and to other relatives having a financial or business relationship with the enterprise which, in the opinion of the examining board, may impair independence.

(3) The examining board may make and enforce any necessary rules relative to this section and may determine the particular phraseology necessary to carry sub. (1) into effect.

History: 1977 c. 264; 1993 a. 490; 2001 a. 16.

**442.11 Penalties.** Whoever does any of the following may, for each offense, be fined not more than \$500, or imprisoned in the county jail for not more than one year, or both:

(1) Uses any term other than certified public accountant or the abbreviation C.P.A. to indicate that he or she is a certified public accountant with a specially granted title.

(2) While practicing under an assumed name, or as a member of a firm, other than a firm with a name that is registered under s. 442.07 (3), announces, either in writing or by printing, that the assumed name or firm is practicing as a certified public accountant.

(5) Holds himself or herself out to the public as a certified public accountant or assumes to practice as a certified public accountant unless he or she has been granted a certificate as a certified public accountant from the examining board.

(7) Practices as a certified public accountant after his or her certificate has been revoked.

(8) As an individual or member of a firm, practices or permits the firm to practice as a certified public accountant unless a license has been secured for the current license period.

(9) Sells, buys, gives, or obtains an alleged certificate as a certified public accountant or a license in any manner other than that provided for by this chapter.

(10) Attempts to practice as a certified public accountant under the guise of a certificate not granted by the examining board or under cover of a certificate obtained illegally or fraudulently.

(11) Certifies to any false or fraudulent report, certificate, exhibit, schedule or statement.

(12) Attempts by any subterfuge to evade the provisions of this chapter while practicing as a certified public accountant.

(13) As an individual or member of a firm, permits to be announced by printed or written statement that any report, certificate, exhibit, schedule, or statement has been prepared by or under supervision of a certified public accountant when the person who prepared the report, certificate, exhibit, schedule, or statement was not a certified public accountant.

History: 1977 c. 29, 418; 1979 c. 162 s. 38 (4), (7), (9); 1981 c. 356; 1999 a. 85; 2001 a. 16.

**442.115 Enforcement actions for violations of this chapter. (1)** If it appears upon complaint to the examining board by any person, or it is known to the examining board, that any person has violated this chapter, the examining board may investigate, subject to the rules promulgated under s. 440.03 (1).

The district attorney of the county in which violations of this chapter are known or alleged to have occurred shall promptly investigate complaints, from any source, of violations of this chapter and



#### 442.115 ACCOUNTING EXAMINING BOARD

prosecute if the facts warrant. Upon request from the examining board, and when the facts warrant, the appropriate district attorney shall promptly seek an injunction against any person who is violating this chapter.

(2) If the district attorney fails or refuses to act within a time that the examining board considers reasonable, the examining board may request the attorney general to institute a prosecution or to seek an injunction for violation of this chapter.

(3) If a person has engaged, or is about to engage, in an act or practice that constitutes, or will constitute, a violation of this chapter, the examining board in its own right or on behalf of an individual complainant may apply to the appropriate court for an order enjoining the act or practice. Upon a showing by the examining board or the complainant that the person has engaged, or is about to engage, in any act or practice in violation of this chapter, the court may grant an injunction, restraining order or other appropriate order without bond.

History: 1999 a. 85 ss. 95, 96.

**442.12 Disciplinary action.** Subject to the rules promulgated under s. 440.03 (1), the examining board may do any of the following:

(1) Make investigations and conduct hearings.

(2) Revoke, limit or suspend for a definite period any certificate or license or officially reprimand the holder, if it finds that *the* holder has violated this chapter or any duly promulgated standard or rule of practice or for any other sufficient cause.

(3) In the case of a firm, revoke, limit, or suspend the license of the firm, or reprimand it, if it is found that any member of the firm has been guilty of such act or omission as would be cause for revoking, limiting, or suspending a certificate or license to the person as an individual or for reprimanding the person.

(4) Impose a period of probation under specified conditions, whether or not in conjunction with other sanctions.

(5) Require additional professional education or training, or reexamination, or any combination, as a condition precedent to the reinstatement of a license or of any privilege, or as a condition precedent to the termination of any suspension.

(6) Suspend a license until further order of the examining board or for a specified period for failure to comply with an order of the examining board imposing disciplinary sanctions.

(7) Upon application in writing and after hearing pursuant to notice, issue a new license to a licensee whose license has been revoked, reinstate a revoked certificate or modify the suspension of any license or certificate which has been suspended. This subsection does not apply to a license or certificate that is suspended under s. 440.13 (2) (c) or that is revoked under s. 440.12.

History: 1977 c. 187, 418; 1981 c. 356; 1997 a. 191, 237; 2001 a. 16.

#### 442.13 Ownership of accountant's working papers.

All statements, records, schedules, working papers, and memoranda made by a certified public accountant incident to or in the course of professional service to clients by a certified public accountant, except reports submitted by a certified public accountant to a client, shall be and remain the property of the certified public accountant, in the absence of an express agreement between the certified public accountant and the client to the contrary. No such statement, record, schedule, working paper, or memorandum shall be sold, transferred, or bequeathed, without the consent of the client or the client's personal representative or assignee, to anyone other than any member of the firm of the certified public accountant.

History: 1991 a. 316; 2001 a. 16.

# Chapter Accy 1

## RULES OF CONDUCT

### Subchapter — Applicability

- Accy 1.001 Applicability.  
 Accy 1.002 Application of rules of conduct to certified public accountants and public accountants who operate a separate business.

### Subchapter [— Independence, Integrity and objectivity

- Accy 1.101 Independence.  
 Accy 1.102 Integrity and objectivity.  
 Accy 1.103 Disclosure of interest.

### Subchapter III — Competence and Technical Standards

- Accy 1.201 General standards.  
 Accy 1.202 Auditing standards.  
 Accy 1.203 Accounting principles.  
 Accy 1.204 Other technical standards.

- Accy 1.205 Accounting standards.

### Subchapter IV — Responsibilities to Clients

- Accy 1.301 Confidential client information.  
 Accy 1.302 Contingent fees, commissions and referral fees.

### Subchapter V — Other Responsibilities and Practices

- Accy 1.401 Acts discreditable.  
 Accy 1.402 Advertising or other forms of solicitation.  
 Accy 1.404 Incompatible occupations.  
 Accy 1.405 Form of practice and name.  
 Accy 1.406 Practice while suspended.  
 Accy 1.407 Communications.  
 Accy 1.408 Ownership requirements.

**History:** Chapter Accy 1 as it existed on June 30, 1974 was repealed and a new Chapter Accy 1 was created, Register, June, 1974, No. 222, effective July 1, 1974.

## Subchapter I — Applicability

**Accy 1.001 Applicability. (1)** A person licensed to practice as a certified public accountant, or public accountant, as defined in the statutes, may be held responsible for compliance with the rules of conduct by all persons associated with him or her in the practice of public accounting who are either under his or her supervision or are partners or shareholders in the practice.

**(2)** A person licensed to practice as a certified public accountant, or public accountant, as defined in the statutes, shall not permit others to carry out on his or her behalf, either with or without compensation, acts which, if carried out by him or her, would place him or her in violation of the rules of conduct.

**History:** Cr. Register, June, 1974, No. 222, eff. 7-1-74; correction made under s. 13.93(2m)(b) 1., Stats., Register, March, 1993, No. 447.

**Accy 1.002 Application of rules of conduct to certified public accountants and public accountants who operate a separate business. (1)** A person or firm licensed to practice as a certified public accountant or public accountant, as defined in the statutes, who operates a separate business which offers to clients one or more types of services rendered by certified public accountants or public accountants is considered to be in the practice of public accounting in the conduct of that business. In this case, all persons with ownership equity in the business are required to observe the rules of conduct in the operation of the separate business.

**(2)** Certified public accountants and public accountants who are not otherwise in public practice must observe the rules of conduct in the operation of their business if they hold themselves out to the public as certified public accountants or public accountants and at the same time offer clients one or more types of services rendered by certified public accountants or public accountants.

**History:** Cr. Register, June, 1982, No. 318, eff. 7-1-82.

## Subchapter II — Independence, Integrity and Objectivity

**Accy 1.101 Independence. (1)** A person licensed to practice as a certified public accountant or public accountant, as defined by the statutes, or a firm of which the certified public accountant or public accountant is a partner or shareholder, shall not express an opinion on financial statements of an enterprise unless the certified public accountant or public accountant and the firm are independent with respect to such enterprise. Independence will be considered to be impaired if, for example:

(a) During the period of a professional engagement, or at the time of expressing an opinion, the certified public accountant or public accountant or the firm:

1. a. Had or was committed to acquire any direct or material indirect financial interest in the enterprise; or
- b. Was a trustee of any trust or executor or administrator of any estate if such trust or estate had or was committed to acquire any direct or material indirect financial interest in the enterprise; or

2. Had any joint closely held business investment with the enterprise or any officer, director or principal stockholder thereof which was material in relation to the certified public accountant's or public accountant's or the firm's net worth; or

3. Had any loan to or from the enterprise or any officer, director or principal stockholder thereof. This latter proscription does not apply to the following loans from a financial institution when made under normal lending procedures, terms and requirements:

a. Loans obtained by a certified public accountant or public accountant or the certified public accountant's or public accountant's firm which are not material in relation to the net worth of such borrower.

b. Home mortgages.

c. Other secured loans, except loans guaranteed by a certified public accountant's or public accountant's firm which are otherwise unsecured.

**(b)** During the period covered by the financial statements, during the period of the professional engagement or at the time of expressing an opinion, the certified public accountant or public accountant, or the firm

1. Was connected with the enterprise as a promoter, underwriter or voting trustee, a director or officer or in any capacity equivalent to that of a member of management or of an employee; or

2. Was a trustee for any pension or profit-sharing trust of the enterprise.

3. The above examples are not intended to be all-inclusive.

**(2)** Interpretations of s. Accy 1.101, not intended to be all-inclusive, are as follows:

(a) *Honorary directorships and trusteeships.* Certified public accountants and public accountants are often asked to lend the prestige of their names to not-for-profit organizations that limit their activities to those of a charitable, religious, civic or similar nature by being named as a director or a trustee.

1. A certified public accountant or public accountant who permits his or her name to be used in this manner and who is associated with the financial statements of the organization would not

be considered lacking in independence under s. Accy 1.101 as long as:

- a. The position is purely honorary,
- b. The position is identified as honorary in all letterheads and externally circulated materials in which the certified public accountant or public accountant is named as a director or trustee,
- c. The certified public accountant or public accountant restricts participation to the use of his or her name, and
- d. The certified public accountant or public accountant does not vote or otherwise participate in management functions.

2. It is the intent of the board that organizations to which certified public accountants or public accountants lend only the prestige of their name will have sufficiently large boards of directors or trustees to clearly permit the certified public accountant or public accountant to limit his or her participation consistent with restrictions in subd. 1.

(b) *Retired partners and firm independence.* A retired partner having a relationship of a type specified in rule s. Accy 1.101 with a client of his or her former firm would not be considered as impairing the firm's independence with respect to the client provided that he or she is no longer active in the firm, that the fees received from such client do not have a material effect on retirement benefits and that he or she is not held out as being associated with the former partnership.

(c) *Accounting services.* 1. Certified public accountants and public accountants in public practice are sometimes asked to provide manual or automated bookkeeping or data processing services to clients who are of insufficient size to employ an adequate internal accounting staff. Computer systems design and programming assistance are also rendered by certified public accountants and public accountants either in conjunction with data processing services or as a separate engagement. Certified public accountants and public accountants who perform such services and who are engaged in the practice of public accounting are subject to the rules of conduct.

2. On occasion, certified public accountants and public accountants also rent "block time" on their computers to their clients but are not involved in the processing of transactions or maintaining the client's accounting records. In such cases, the sale of block time constitutes a business rather than a professional relationship and must be considered together with all other relationships between the certified public accountant or public accountant and client to determine if their aggregate impact is such as to impair the certified public accountant's or public accountant's independence.

3. When a certified public accountant or public accountant performs manual or automated bookkeeping services, concern may arise whether the performance of such services would impair his or her audit independence, that the performance of such basic accounting services would cause the audit to be lacking in a review of mechanical accuracy or that the accounting judgments made by him or her in recording transactions may somehow be less reliable than if made by him or her in connection with the subsequent audit.

4. Certified public accountants and public accountants are skilled in, and well accustomed to, applying techniques to control mechanical accuracy, and the performance of the record-keeping function should have no effect on application of such techniques. With regard to accounting judgments, if third parties have confidence in a certified public accountant's or public accountant's judgment in performing an audit, it is difficult to contend that they would have less confidence where the same judgment is applied in the process of preparing the underlying accounting records.

5. Nevertheless, a certified public accountant or public accountant performing accounting services for an audit client must meet the following requirements to retain the appearance that he or she is not virtually an employee and therefore lacking in independence in the eyes of a reasonable observer.

a. The certified public accountant or public accountant must not have any relationship or combination of relationships with the client or any conflict of interest which would impair his or her integrity and objectivity.

b. The client must accept the responsibility for the financial statements as his or her own. A small client may not have anyone in his or her employ to maintain accounting records and may rely on the certified public accountant or public accountant for this purpose. Nevertheless, the client must be sufficiently knowledgeable of the enterprise's activities and financial condition and the applicable accounting principles so that he or she can reasonably accept such responsibility, including, specifically, fairness of valuation and presentation and adequacy of disclosure. When necessary, the certified public accountant or public accountant must discuss accounting matters with the client to be sure that the client has the required degree of understanding.

c. The certified public accountant or public accountant must not assume the role of employee or of management conducting the operations of an enterprise. For example, the certified public accountant or public accountant shall not consummate transactions, have custody of assets or exercise authority on behalf of the client. The client must prepare the source documents on all transactions in sufficient detail to identify clearly the nature and amount of such transactions and maintain an accounting control over data processed by the certified public accountant or public accountant such as control totals and document counts. The certified public accountant or public accountant should not make changes in such basic data without the concurrence of the client.

d. The certified public accountant or public accountant, in making an examination of financial statements prepared from books and records which he or she has maintained completely or in part, must conform to generally accepted auditing standards. The fact that he or she has processed or maintained certain records does not eliminate the need to make sufficient audit tests.

6. When a client's securities become subject to regulation by the securities and exchange commission or other federal or state regulatory body, responsibility for maintenance of the accounting records, including accounting classification decisions, must be assumed by accounting personnel employed by the client. The assumption of this responsibility must commence with the first fiscal year after which the client's securities qualify for such regulation.

(d) *Effect of family relationships on independence.* Rule of conduct s. Accy 1.101 proscribes relationships which impair a Certified public accountant's or public accountant's independence through direct financial interests, material indirect financial interests, or other involvements. Relationships which arise through family bloodlines and marriage give rise to circumstances that may impair a certified public accountant's or public accountant's independence.

(dg) *Financial and business relationships ascribed to the certified public accountant or public accountant.* It is well accepted that the independence of a certified public accountant or public accountant may be impaired by the financial interests and business relationships of the certified public accountant's or public accountant's spouse, dependent children, or any relative living in a common household with or supported by the certified public accountant or public accountant. The financial interests or business relationships of such family, dependents or relatives in a certified public accountant's or public accountant's client are ascribed to the certified public accountant or public accountant; in such circumstances the independence of the certified public accountant or public accountant or his or her firm would be impaired under s. Accy 1.101.

(dm) *Financial and business relationships that may be ascribed to the certified public accountant or public accountant.* Family relationships may also involve other circumstances in which the appearance of independence is lacking. However, it is

not reasonable to assume that all kinships, per se, will impair the appearance of independence since some kinships are too remote. The following guidelines specify the effect of kinship on the appearance of independence:

1. A presumption that the appearance of independence is impaired arises from a significant financial interest, investment, or business relationship by the following close kin in a certified public accountant's or public accountant's client: non-dependent children, brothers and sisters, grandparents, parent, parents-in-law, and the respective spouses of any of the foregoing.

2. If the close kin's financial interest in a certified public accountant's or public accountant's client is material in relationship to the kin's net worth, a third party could conclude that the certified public accountant's or public accountant's objectivity is impaired with respect to the client since the kinship is so close. In addition, financial interests held by close kin may result in an indirect financial interest being ascribed to the certified public accountant or public accountant.

3. The presumption that the appearance of independence is impaired would also prevail where a close kin has an important role or responsible executive position (e.g., director, chief executive or financial officer) with a client.

4. Geographical separation from close kin and infrequent contact may mitigate such impairment except with respect to:

a. A partner participating in the engagement or located in an office participating in a significant portion of the engagement,

b. A partner in the same office or one who maintained close personal relationships with partners participating in a significant portion of the engagement,

c. A partner who, as a result of his or her administrative or advisory positions, is involved in the engagement, or

d. A staff member participating in the engagement or located in an office participating in a significant portion of the engagement.

5. If a certified public accountant or public accountant does not or could not reasonably be expected to have knowledge of the financial interests, investments and business relationships of close kin, such lack of knowledge would serve to maintain his or her objectivity and appearance of independence.

(ds) *Financial and business relationships that are not normally ascribed to the certified public accountant or public accountant.* A presumption that the appearance of independence is impaired would not normally arise from the financial interests and business relationships of remote kin: uncles, aunts, cousins, nephews, nieces, other in-laws, and other kin who are not close. The financial interests and business relationships of these remote kin are not considered either direct or indirect interests ascribed to the certified public accountant or public accountant. However, the presumption of no impairment with remote kin would be negated if other factors indicating a closeness exist, such as living in the same household with the certified public accountant or public accountant, having financial ties, or jointly participating in other business enterprises.

(dx) *Summary.* Certified public accountants or public accountants must be aware that it is impossible to enumerate all circumstances wherein the appearance of independence might be questioned by third parties because of family relationships. In situations involving the assessment of relationships with both close and remote kin, certified public accountants or public accountants must consider whether geographical proximity, strength of personal and other business relationships and other factors — when viewed together with financial interests in question — would lead a reasonable observer to conclude that the specified relationships pose an unacceptable threat to the certified public accountant's or public accountant's objectivity and appearance of independence.

(e) *Meaning of term "normal lending procedures, terms and requirements".* Subsection (1) (a) 3. prohibits loans to a certified public accountant or public accountant from a client except for certain specified kinds of loans from a client financial institution when made under "normal lending procedures, terms and requirements." The certified public accountant or public accountant would meet the criteria prescribed by this rule if the procedures, terms and requirements relating to the loan are reasonably comparable to those relating to loans of similar character committed to other borrowers during the period in which the loan to the certified public accountant or public accountant is committed. Accordingly, in making such comparison and in evaluating whether the loan was made under "normal lending procedures, terms and requirements," the certified public accountant or public accountant should consider all the circumstances under which the loan was granted including:

1. The amount of the loan in relation to the value of the collateral pledged as security and the credit standing of the certified public accountant or public accountant or his or her firm.

2. Repayment terms.

3. Interest rate, including "points."

4. Requirement to pay closing costs in accordance with the lender's usual practice.

5. General availability of such loans to the public.

6. Related prohibitions prescribed by certain state and federal agencies having regulatory authority over financial institutions.

(f) *The effect of actual or threatened litigation on independence.* Rule of conduct s. Accy 1.101 prohibits the expression of an opinion on financial statements of an enterprise unless a certified public accountant or public accountant and the certified public accountant's or public accountant's firm are independent with respect to the enterprise. In some circumstances, independence may be considered to be impaired as a result of litigation or the expressed intention to commence litigation.

1. *Litigation between client and auditor.* In order for the auditor to fulfill the auditor's obligation to render an informed, objective opinion on the client company's financial statements, the relationship between the management of the client and the auditor must be characterized by complete candor and full disclosure regarding all aspects of the client's business operations. In addition, there must be an absence of bias on the part of the auditor so that the auditor can exercise dispassionate professional judgment on the financial reporting decisions made by the management. When the present management of a client company commences, or expresses an intention to commence, legal action against the auditor, the auditor and the client management may be placed in adversary positions in which the management's willingness to make complete disclosure and the auditor's objectivity may be affected by self-interest.

Im. *Guidelines.* For the reasons outlined above, independence may be impaired whenever the auditor and the auditor's client company or its management are in threatened or actual positions of material adverse interests by reason of actual or intended litigation. Because of the complexity and diversity of the situations of adverse interests which may arise, however, it is difficult to prescribe precise points at which independence may be impaired. The following criteria are offered as guidelines:

a. The commencement of litigation by the present management alleging deficiencies in audit work for the client would be considered to impair independence.

b. The commencement of litigation by the auditor against the present management alleging management fraud or deceit would be considered to impair independence.

c. An expressed intention by the present management to commence litigation against the auditor alleging deficiencies in audit work for the client is considered to impair independence if the

auditor concludes that there is a strong possibility that such a claim will be filed.

d. Litigation not related to audit work for the client (whether threatened or actual) for an amount not material to the certified public accountant's or public accountant's ~~firm~~ (Because of the complexities of litigation and the circumstances under which it may arise, it is not possible to prescribe meaningful criteria for measuring materiality; accordingly, the certified public accountant or public accountant should consider the nature of the controversy underlying the litigation and all other relevant factors in reaching a judgment.), or to the financial statements of the client company would not usually be considered to affect the relationship in such a way as to impair independence. Such claims may arise, for example, out of disputes as to billings for services, results of tax or management services advice or similar matters.

2. Litigation by security holders. The auditor may also become involved in litigation ("primary litigation") in which the auditor and the client company or its management are defendants. Such litigation may arise, for example, when one or more stockholders bring a stockholders' derivative action or a so-called "class action" against the client company or its management, its officers, directors, underwriters and auditors under the securities laws. ~~Such primary litigation in itself would not alter fundamental relationships between the client company or its management and auditor and therefore should not be deemed to have an adverse impact on the auditor's independence. These situations should be examined carefully; however, since the potential for adverse interests may exist if cross-claims are filed against the auditor alleging that the auditor is responsible for any deficiencies or if the auditor alleges fraud or deceit by the present management as a defense. In assessing the extent to which the auditor's independence may be impaired under these conditions, the auditor should consider the following additional guidelines:~~

a. The existence of cross-claims filed by the client, its management, or any of its directors to protect a right to legal redress in the event of a future adverse decision in the primary litigation (or, in lieu of cross-claims, agreements to extend the statute of limitations) would not normally affect the relationship between client management and auditor in such a way as to impair independence, ~~unless there exists a significant risk that the cross-claim will result in a settlement or judgment in an amount material to the certified public accountant's or public accountant's firm (Because of the complexities of litigation and the circumstances under which it may arise, it is not possible to prescribe meaningful criteria for measuring materiality; accordingly, the certified public accountant or public accountant should consider the nature of the controversy underlying the litigation and all other relevant factors in reaching a judgment.) or to the financial statements of the client.~~

b. The assertion of cross-claims against the auditor by underwriters would not usually impair independence if no such claims are asserted by the company or the present management.

c. If any of the persons who file cross-claims against the auditor are also officers or directors of other clients of the auditor, the auditor's independence with respect to such other clients would not usually be impaired.

3. Other third-party litigation. Another type of third-party litigation against the auditor may be commenced by a lending institution, other creditor, security holder or insurance company who alleges reliance on financial statements of the client examined by the auditor as a basis for extending credit or insurance coverage to the client. In some instances, an insurance company may commence litigation (under subrogation rights) against the auditor in the name of the client to recover losses reimbursed to the client. These types of litigation would not normally affect the auditor's independence with respect to a client who is either not the plaintiff or is only the nominal plaintiff, since the relationship between the auditor and client management would not be

affected. They should be examined carefully, however, since the potential for adverse interests may exist if the auditor alleges, in the auditor's defense, fraud or deceit by the present management.

3m. Client. If the real party in interest in the litigation (e.g., the insurance company) is also a client of the auditor ("the plaintiff client"), the auditor's independence with respect to the plaintiff client may be impaired if the litigation involves a significant risk of a settlement or judgment in an amount which would be material to the certified public accountant's or public accountant's firm (Because of the complexities of litigation and the circumstances under which it may arise, it is not possible to prescribe meaningful criteria for measuring materiality; accordingly, the certified public accountant or public accountant should consider the nature of the controversy underlying the litigation and all other relevant factors in reaching a judgment.) or to the financial statements of the plaintiff client. If the auditor concludes that such litigation is not material to the plaintiff client or the auditor's firm and ~~thus~~ the auditor's independence is not impaired, the auditor should nevertheless ensure that professional personnel assigned to the audit of either of the 2 clients have no involvement with the audit of the ~~other~~.

4. Effects of impairment of independence. If the auditor believes that the circumstances would lead a reasonable person ~~having knowledge of the facts to conclude that the actual or intended litigation poses an unacceptable threat to the auditor's independence and the auditor should either disengage himself/herself to void the appearance that the auditor's self-interest would affect the auditor's objectivity, or disclaim an opinion because of lack of independence as prescribed by section 517 of statement on auditing standards no. 1.~~ Such disengagement may take the form of resignation or cessation of any audit work then in progress pending resolution of the issues between the parties.

5. Termination of impairment. The conditions giving rise to a lack of independence are usually eliminated when a final resolution is reached and the matters at issue no longer affect the relationship between auditor and client. The auditor should carefully review the conditions of such resolution to determine that all ~~impairments to the auditor's objectivity have been removed.~~

6. Actions permitted while independence is impaired. If the auditor was independent when the auditor's report was initially rendered, the auditor may re-sign such report or consent to its use at a later date while the auditor's independence is impaired provided that no post-audit work is performed by such auditor during the period of impairment. The term "post-audit work", in this context, does not include inquiries of subsequent auditors, reading of subsequent financial statements, or such procedures as may be necessary to assess the effect of subsequently discovered facts on the financial statements covered by the auditor's previously issued report.

(g) *Application of s. Accy 1.101 to professional personnel.* The term "a person" as used in the first sentence of s. Accy 1.101 means:

1. All partners or shareholders in the ~~firm~~ and
2. All full-time and part-time professional employees, including those employees qualified in other professions, participating in the engagement or located in an office participating in a significant portion of the engagement.

**History:** Cr. Register, June, 1974, No. 222, eff. 7-1-74; cr. (2). Register, December, 1974, No. 228, eff. 1-1-75; cr. (2) (d). Register, February, 1976, No. 242, eff. 4-1-76; cr. (2) (e). Register, January, 1977, No. 253, eff. 3-1-77; r. and recr. (1) and cr. (2) (f). Register, July, 1979, No. 283, eff. 9-1-79; r. and recr. (2) (a), am. (2) (d) 2. intro. and d., cr. (2) (g). Register, July, 1980, No. 295, eff. 8-1-80; corrections made under s. 13.93(2m) (b) 1. and 5., Stats., Register, March, 1993, No. 447.

**Accy 1.102 Integrity and objectivity.** No person licensed to practice as a certified public accountant, or public accountant, as defined in the statutes, shall knowingly misrepresent facts, and when engaged in the practice of public accounting, including the rendering of tax and management advisory services,

shall not subordinate his or her judgment to others. In tax practice, a member may resolve doubt in favor of the client as long as there is reasonable support for that position.

**History:** Cr. Register, June, 1974, No. 222, eff. 7-1-74; corrections made under s. 13.93(2m) (b) 5., Stats., Register, March 1993, No. 447.

**Accy 1.103 Disclosure of interest.** As to disclosure of interest in corporation reported on, s. 442.10, Stats., is controlling.

**History:** Cr. Register, June, 1974, No. 222, eff. 7-1-74.

### Subchapter III — Competence and Technical Standards

**Accy 1.201 General standards.** (1) All persons licensed to practice as a certified public accountant or public accountant, as defined in the statutes, shall comply with the following general standards as interpreted by bodies designated by the American institute of certified public accountants council, and must justify any departures therefrom.

(a) *Professional competence.* A certified public accountant or public accountant shall undertake only those engagements which the certified public accountant or public accountant or the firm can reasonably expect to complete with professional competence.

(b) *Due professional care.* A certified public accountant or public accountant shall exercise due professional care in the performance of an engagement.

(c) *Planning and supervision.* A certified public accountant or public accountant shall adequately plan and supervise an engagement.

(d) *Sufficient relevant data.* A certified public accountant or public accountant shall obtain sufficient relative data to afford a reasonable basis for conclusions or recommendations in relation to an engagement.

(e) *Forecasts.* A certified public accountant or public accountant shall not permit the certified public accountant's or public accountant's name to be used in conjunction with any forecast of future transactions in a manner which may lead to the belief that the certified public accountant or public accountant vouches for the achievability of the forecast.

1. Interpretations of par. (e), not intended to be all-inclusive, are as follows:

a. Paragraph (e) does not prohibit a certified public accountant or public accountant from preparing, or assisting a client in the preparation of, forecasts of the results of future transactions. When a certified public accountant's or public accountant's name is associated with such forecasts, there shall be the presumption that such data may be used by parties other than the client. Therefore, full disclosure must be made of the sources of the information used and the major assumptions made in the preparation of the statements and analyses, and character of the work performed by the member, and the degree of the responsibility he or she is taking.

(2) Interpretations of s. Accy 1.201, not intended to be all-inclusive, are as follows:

(a) A certified public accountant or public accountant who accepts a professional engagement implies that he or she has the necessary competence to complete the engagement according to professional standards, applying the certified public accountant's or public accountant's knowledge and skill with reasonable care and diligence, but the certified public accountant or public accountant does not assume a responsibility for infallibility of knowledge or judgment.

(b) Competence in the practice of public accounting involves both the technical qualifications of the certified public accountant or public accountant and his or her staff and the ability to supervise and evaluate the quality of the work performed. Competence relates both to knowledge of the profession's standards, techniques and the technical subject matter involved, and to the capa-

bility to exercise sound judgment in applying such knowledge to each engagement.

(c) The certified public accountant or public accountant may have the knowledge required to complete an engagement professionally before undertaking it. In many cases, however, additional research or consultation with others may be necessary during the course of the engagement. This does not ordinarily represent a lack of competence, but rather is a normal part of the professional conduct of an engagement.

(d) However, if a certified public accountant or public accountant is unable to gain sufficient competence through these means, he or she should suggest, in fairness to the client and the public, the engagement of someone competent to perform the needed service, either independently or as an associate.

**History:** Cr. Register, June, 1974, No. 222, eff. 7-1-74; cr. (2), Register, December, 1974, No. 228, eff. 1-1-75; r. and recr. (1) and am., (2) (a), Register, July, 1979, No. 283, eff. 9-1-79; (1) (e) renum. from Accy 1.204 (2) and am., Register, July, 1980, No. 295, eff. 8-1-80; corrections made under s. 13.93(2m) (b) 1., Stats., Register, March, 1993, No. 447.

**Accy 1.202 Auditing standards.** (1) A person licensed to practice as a certified public accountant or public accountant, as defined in the statutes, shall not permit the certified public accountant's or public accountant's name to be associated with financial statements in such a manner as to imply that the certified public accountant or public accountant is acting as an independent public accountant unless the certified public accountant or public accountant has complied with the applicable generally accepted auditing standards promulgated by the American institute of certified public accountants. Statements on auditing standards used by the American institute of certified public accountants auditing standards executive committee are, for purposes of this rule, considered to be interpretations of the generally accepted auditing standards, and departures from such statements must be justified by those who do not follow them.

(2) Interpretations of s. Accy 1.202, not intended to be all-inclusive, are as follows:

(a) Section Accy 1.202 does not preclude a certified public accountant or public accountant from associating with the unaudited financial statements of clients. The rule states in part that "No person licensed to practice as a certified public accountant, or public accountant, as defined in the statutes, shall permit his [her] name to be associated with financial statements in such a manner as to imply that he [she] is acting as an independent public accountant unless he [she] has complied with the applicable generally accepted auditing standards promulgated by the American Institute of Certified Public Accountants."

1. In applying this provision to situations in which a certified public accountant's or public accountant's name is associated with unaudited financial statements, it is necessary to recognize that the standards were specifically written to apply to audited financial statements. The fourth reporting standard, however, was made sufficiently broad to be applicable to unaudited financial statements as well.

2. The fourth Reporting Standard states in part:

"... In all cases where an auditor's name is associated with financial statements, the report should contain a clear-cut indication of the auditor's examination, *if any*, and the degree of responsibility he is taking."

3. Those sections of *Statements on Auditing Standards* and related guides which deal with unaudited financial statements provide guidance to certified public accountants and public accountants associated with such statements.

**History:** Cr. Register, June, 1974, No. 222, eff. 7-1-74; cr. (2), Register, February, 1976, No. 242, eff. 4-1-76; r. and recr. (1) Register, July, 1979, No. 283, eff. 9-1-79.

**Accy 1.203 Accounting principles.** (1) No person licensed to practice as a certified public accountant, or public accountant, as defined in the statutes, shall express an opinion that

financial statements are presented in conformity with generally accepted accounting principles if such statements contain any departure from an accounting principle promulgated by the body designated by the council of the American institute of certified public accountants to establish such principles which has a material effect on the statements taken as a whole, unless he or she can demonstrate that due to unusual circumstances the financial statements would otherwise have been misleading. In such cases the report must describe the departure, the approximate effects thereof, if practicable, and the reasons why compliance with the principle would result in a misleading statement.

(2) Interpretations of s. Accy 1.203, not intended to be all-inclusive, are as follows:

(a) Departures from established accounting principles. S. Accy 1.203 was adopted to require compliance with accounting principles promulgated by the body designated by council of the American institute of certified public accountants to establish such principles. There is a strong presumption that adherence to officially established accounting principles would in nearly all instances result in financial statements that are not misleading.

(b) However, in the establishment of accounting principles it is difficult to anticipate all of the circumstances to which such principles might be applied. This rule therefore recognizes that upon occasion there may be unusual circumstances where the literal application of pronouncements on accounting principles would have the effect of rendering financial statements misleading. In such cases, the proper accounting treatment is that which will render the financial statements not misleading.

(c) The question of what constitutes unusual circumstances as referred to in s. Accy 1.203 is a matter of professional judgment involving the ability to support the position that adherence to a promulgated principle would be regarded generally by reasonable persons as producing a misleading result.

(d) Examples of events which may justify departures from a principle are new legislation or the evolution of a new form of business transaction. An unusual degree of materiality or the existence of conflicting industry practices are examples of circumstances which would not ordinarily be regarded as unusual in the context of s. Accy 1.203.

(e) Council of the American institute of certified public accountants is authorized under s. Accy 1.203 to designate a body to establish accounting principles and has designated the financial accounting standards board as such body. The accounting examining board also has resolved that financial accounting standards board statements of financial accounting standards, together with those accounting research bulletins and accounting principles board opinions which are not superseded by action of the FASB, constitute accounting principles as contemplated in s. Accy 1.203.

(f) In determining the existence of a departure from an accounting principle established by a statement of financial accounting standards, accounting research bulletin or accounting principles board opinion encompassed by s. Accy 1.203, the accounting examining board will construe such statement, bulletin or opinion in the light of any interpretations thereof issued by the financial accounting standards board.

History: Cr. Register, June, 1974, No. 222, eff. 7-1-74; cr. (2), Register, December, 1974, No. 228, eff. 1-1-75; corrections made under s. 13.93(2m) (b) 5., Stats., Register, March, 1993, No. 447.

**Accy 1.204 Other technical standards.** A person licensed to practice as a certified public accountant or public accountant, as defined by the statutes, shall comply with other technical standards promulgated by bodies designated by the American institute of certified public accountants council to establish such standards, and departures therefrom must be justified by those who do not follow them.

History: Cr. Register, June, 1973, No. 222, eff. 7-1-73; cr. (2), Register, December, 1974, No. 228, eff. 1-1-75; r. and rec. (1), Register, July, 1979, No. 283, eff.

9-1-79; renum. (2) to be Accy 1.201 (1) (e), Register, July, 1980, No. 295, eff. 5-1-80.

**Accy 1.205 Accounting standards.** The following standards of the accounting profession shall be used by certified public accountants in Wisconsin:

(1) The statements on auditing standards issued as of June 1, 2001 by the auditing standards board of the American institute of certified public accountants and published as AICPA professional standards, volume 1 by the American institute of certified public accountants, inc., New York, New York is incorporated by reference into this section.

(2) The statements on standards for accounting and review services issued as of June 1, 2001 by the accounting and review services committee of the American institute of certified public accountants and published as AICPA professional standards, volume 2 by the American institute of certified public accountants, inc., New York, New York is incorporated by reference into this section.

(3) The statement on standards for attestation engagements issued as of June 1, 2001, by the auditing standards board, the accounting and review services committee, and the consulting services executive committee of the American institute of certified public accountants and published as AICPA professional standards, volume 2 by the American institute of certified public accountants, inc., New York, New York is incorporated by reference into this section.

Note: Copies of the Statements described above may be purchased from the American Institute of Certified Public Accountants, 1211 Avenue of the Americas, New York, NY 10036-8775.

Note: Copies of the Statements described above are on file in the offices of the Accounting Examining Board: the Secretary of State, and the Revisor of Statutes.

History: CR 01-133; cr. Register October 2002 No. 562, eff. 11-1-02.

## Subchapter IV — Responsibilities to Clients

**Accy 1.301 Confidential client information.** (1) No person licensed to practice as a certified public accountant, or public accountant, as defined in the statutes, shall disclose any confidential information obtained in the course of a professional engagement except with the consent of the client or through the due process of law.

(2) This rule shall not be construed:

(a) To relieve such a person of the obligation under ss. Accy 1.202 and 1.203.

(b) To affect in any way compliance with a validly issued subpoena or summons enforceable by order of a court,

(c) To prohibit review of such a person's professional practices as a part of voluntary quality review under authorization of the American institute of certified public accountants or the Wisconsin society of certified public accountants or

(d) To preclude a certified public accountant or public accountant from responding to an inquiry made by the ethics division of trial board of American institute of certified public accountants, by duly constituted investigative or disciplinary body of a state CPA society, or under any state statutes.

(3) Members of the ethics division and trial board of the American institute of certified public accountants and professional practice reviewers under American institute of certified public accountants authorization, or their state society counterparts, shall not disclose any confidential client information which comes to their attention from such persons in disciplinary proceedings or otherwise in carrying out their official responsibilities. However, this prohibition shall not restrict the exchange of information with an aforementioned duly constituted investigative or disciplinary body.

(4) Interpretations of s. Accy 1.301, not intended to be all-inclusive, are as follows:

(a) *Confidential information and technical standards.* The prohibition against disclosure of confidential information

obtained in the course of a professional engagement does not apply to disclosure of such information when required to properly discharge the certified public accountant's or public accountant's responsibility according to the profession's standards. The prohibition would not apply, for example, to disclosure, as required by section 561 of Statement on Auditing Standards No. 1, of subsequent discovery of facts existing at the date of the auditor's report which would have affected the auditor's report had the auditor been aware of such facts.

**History:** Cr. Register, June, 1974, No. 222, eff. 7-1-74; cr. (4), Register, December, 1974, No. 228, eff. 1-1-75; corrections made under s. 13.93(2m) (b) 5., Stats., Register, March, 1993, No. 447.

**Accy 1.302 Contingent fees, commissions and referral fees. (DEFINITIONS. As used in this section:**

(a) "Attest service" means any audit, any review of a financial statement, or any compilation of a financial statement when the certified public accountant or public accountant expects, or reasonably might expect, that a third party will use the compilation and the certified public accountant or public accountant does not disclose a lack of independence, or any examination of prospective financial information.

(b) "Audit" means an examination of financial statements of a person by a certified public accountant or public accountant, conducted in accordance with generally accepted auditing standards, to determine whether, in the opinion of the certified public accountant or public accountant, the statements conform with generally accepted accounting principles or, if applicable, with another Comprehensive basis of accounting.

(c) "Commission" means compensation, except a referral fee, for recommending or referring any product or service to be supplied by another person.

(d) "Compilation of a financial statement" means a presentation of information in the form of a financial statement that is the representation of any other person without the undertaking of the certified public accountant or public accountant to express any assurance on the statement.

(e) "Contingent fee" means a fee established for the performance of any service according to an arrangement in which no fee will be charged unless a specified finding or result is attained, or in which the amount of the fee is otherwise dependent upon the finding or result of such service.

(f) "Examination of prospective financial information" means an evaluation by a certified public accountant or public accountant of a forecast or projection, the support underlying the assumptions in the forecast or projection, whether the presentation of the forecast or projection is in conformity with professional presentation guidelines, or, whether the assumptions in the forecast or projection provide a reasonable basis for the forecast or projection.

(g) "Forecast" means a prospective financial statement that presents, to the best of the responsible party's knowledge and belief, an entity's expected financial position, results of operations, and changes in financial position or cash flows that are based on the responsible party's assumptions reflecting conditions it expects to exist and the course of action it expects to take.

(h) "Person" means any natural person, corporation, partnership, unincorporated association, or other entity.

(i) "Projection" means a prospective financial statement that presents, to the best of the responsible party's knowledge and belief, given one or more hypothetical assumptions, an entity's expected financial position, results of operations, and changes in financial position or cash flows that are based on the responsible party's assumptions reflecting conditions it expects would exist and the course of action it expects would be taken given such hypothetical assumptions.

(j) "Referral fee" means compensation for recommending or referring any service of a certified public accountant or public accountant to any person.

(k) "Review" means to perform an inquiry and analytical procedures that permit a certified public accountant or public accountant to determine whether there is a reasonable basis for expressing limited assurance that there are no material modifications that should be made to financial statements in order for them to be in conformity with generally accepted accounting principles or, if applicable, with another comprehensive basis of accounting.

(2) **CONTINGENT FEES.** Except as provided in sub. (3), a certified public accountant or public accountant may charge a contingent fee provided the accountant and the client make a contingent fee agreement in writing, signed by the client, which states the method by which the fee is to be determined and describes all costs and expenses to be charged to the client. Upon conclusion of the contingent fee matter, the accountant shall provide the client with a written statement showing the fee and all the costs and expenses charged to the client.

(3) **CERTAIN CONTINGENT FEES PROHIBITED.** No certified public accountant or public accountant may receive a contingent fee from any person for whom the accountant performs attest services during the period of the attest services engagement or the period covered by any historical financial statements involved in the attest services.

(4) **COMMISSIONS.** Except as provided in sub. (5), a certified public accountant or public accountant may receive a commission provided that at the time the referral or recommendation is made, the accountant informs the client in writing of the amount and reason for the commission.

(5) **CERTAIN COMMISSIONS PROHIBITED.** No certified public accountant or public accountant may receive a commission from any person for whom the accountant performs attest services, or may receive a commission for any products or services sold to any person for whom the accountant performs attest services, during the period of the attest services or the period covered by any historical financial statement involved in the attest services.

(6) **REFERRAL FEES.** No certified public accountant or public accountant may receive a referral fee unless all of the following apply:

(a) The accountant who accepts the referral fee discloses to the client, in writing, at the time the referral is made, the amount of and reason for the referral fee.

(b) The accountant who pays the referral fee discloses to the client, in writing, within 30 days after the referral is made, the amount of and reason for the referral fee.

(7) **EXCEPTIONS.** This section shall not prohibit payments for the purchase of an accounting practice or retirement payments to individuals formerly engaged in the practice of public accounting or payments to their heirs or estates.

**History:** Cr. Register, June, 1974, No. 222, eff. 7-1-74; r. and recr. Register, February, 1990, No. 410, eff. 3-1-90.

## **Subchapter V — Other Responsibilities and Practices**

**Accy 1.401 Acts discreditable. (1)** No person licensed to practice as a certified public accountant, or public accountant, as defined in the statutes, shall commit an act discreditable to the profession.

(2) Interpretations of s. Accy 1.401, not intended to be all-inclusive, are as follows:

(a) *Client's records and accountant's workpapers.* Retention of client records after a demand is made for them is an act discreditable to the profession in violation of s. Accy 1.401. It would be a violation of the code to retain a client's records to enforce payment. A certified public accountant's or public accountant's **workpapers** are his or her property and need not be surrendered to the client. However, in some instances working papers will contain data which should properly be reflected in the client's books and records but which for convenience have not been duplicated therein, with the result that the client's records are incomplete. In such instances, the portion of the working papers containing such



data constitutes part of the client's records, and copies should be made available to the client upon request. If a certified public accountant or public accountant is engaged to perform certain work for a client and the engagement is terminated prior to the completion of such work, the certified public accountant or public accountant is required to return or furnish copies of only those records originally given to the certified public accountant or public accountant by the client. Examples of working papers that are considered to be the client's records would include:

1. Worksheets in lieu of books of original entry (e.g., listings and distributions of cash receipts or cash disbursements on columnar working paper).

2. Worksheets in lieu of general ledger or subsidiary ledgers, such as accounts receivable, job cost and equipment ledgers, or similar depreciation records.

3. All adjusting and closing journal entries and supporting details. (If the supporting details are not fully set forth in the explanation of the journal entry, but are contained in analyses of accounts in the accountant's working papers, then copies of such analyses must be furnished to the client.)

4. Consolidating or combining journal entries and worksheets and supporting detail used in arriving at final figures incorporated in an end product such as financial statements or tax returns.

(am) *Working papers.* Any working papers developed by the certified public accountant or public accountant incident to the performance of an engagement which do not result in changes to the client's records or are not in themselves part of the records ordinarily maintained by such clients are considered to be solely "accountant's working papers" and are not the property of the client, for example:

1. The certified public accountant or public accountant may make extensive analyses of inventory or other accounts as part of the selective audit procedures. Even if such analyses have been prepared by client personnel at the request of the certified public accountant or public accountant, they nevertheless are considered to be part of the accountant's working papers. Only to the extent such analyses result in changes to the client's records would the certified public accountant or public accountant be required to furnish the details from the working papers in support of the journal entries recording such changes, unless the journal entries themselves contain all necessary details.

(an) *Duty discharged.* Once the certified public accountant or public accountant has returned the client's records or furnished the copies of such records and/or necessary supporting data, the obligation has been discharged in this regard and it is not necessary to comply with any subsequent requests to again furnish such records.

(ao) *Copies to the client.* If the certified public accountant or public accountant has retained copies of a client's records already in possession of the client, the certified public accountant or public accountant is not required to return such copies to the client.

(b) *Conviction of a crime.* Conviction of a crime the circumstances of which substantially relate to the practice of accounting is an act discreditable to the profession in violation of s. Accy 1.401. As enumerated below, the board shall act as follows:

1. On conviction of a felony, the circumstances of which substantially relate to the practice of accounting the board will initiate charges in every instance.

2. On conviction for willful failure to file an income tax return or other document which, the certified public accountant or public accountant as an individual is required by law to file, for filing a false or fraudulent income tax return or other document on his or her or a client's behalf, or for willful aiding in the preparation and/or presentation of a false or fraudulent income tax return of a client, or the willful making of a false representation in connection with the determination, collection or refund of any tax,

whether it be in his or her own behalf or in behalf of a client, the board will initiate charges in every instance.

3. On conviction of a misdemeanor the circumstances of which substantially relate to the practice of accounting the board will review the circumstances and the nature of the act resulting in conviction. Each such situation will be considered by the board as an informal complaint. The minutes of the board will reflect the fact of review and the resulting disposition of the informal complaint. Such convictions that are professionally related and related to good moral character can be the basis for bringing formal charges and subsequent board action.

4. On conviction for failure to act with integrity and trustworthiness with information or property of others, the board will initiate charges in every instance.

(bm) A certified public accountant or public accountant shall notify the board in writing within 60 days after being convicted of a crime.

(c) *Receiving fees for services not performed.* The deliberate receipt and retention of a fee from a client for services not performed when the client has been given reason to believe that there should be performance, or the withholding of services and receiving a retainer or fee when the services agreed upon have knowingly been withheld, are acts discreditable to the profession. (The amount or rate of charge for services is a contractual matter between the certified public accountant or public accountant and the client, and except as related to the provision, the board does not have authority to set or regulate fees or for taking jurisdiction in such matters. The term "services not performed" means situations in which the actual work for which payment is received is not done.)

(d) *Discrimination in employment practices.* Discrimination based on race, color, religion, sex, age or national origin in hiring, promotion or salary practices is presumed to constitute an act discreditable to the profession in violation of this section.

**History:** Cr. Register, June, 1974, No. 222, eff. 7-1-74; cr. (2), Register, February, 1976, No. 242, eff. 5-1-76; am. (2)(b), Register, July, 1979, No. 283, eff. 9-1-79; renum. from Accy 1.501 and am. (2) (intro.) (a) and (b), cr. (2)(d) and (e), Register, July, 1980, No. 295, eff. 8-1-80; am. (2)(b) intro. and cr. (2)(b)4., Register, April, 1981, No. 304, eff. 5-1-81; am. (2)(d), renum. (2)(c) to be Accy 1.402 (2)(c), Register, June, 1982, No. 318, eff. 7-1-82; cr. (2)(bm), Register, April, 1985, No. 352, 5-1-85.

**Accy 1.402 Advertising or other forms of solicitation.** No certified public accountant or public accountant may advertise or solicit a client in a manner that is false, fraudulent, misleading or deceptive.

**History:** Cr. Register, June, 1974, No. 222, eff. 7-1-74; cr. (2), Register, December, 1974, No. 228, eff. 1-1-75; r. and recr. (2)(a), (g), (j) and (n), Register, February, 1976, No. 242, eff. 5-1-76; r. and recr. Register, July, 1978, No. 271, eff. 9-1-78; renum. from Accy 1.502 and am. (2) (intro.). Register, July, 1980, No. 295, eff. 8-1-80; am. (1) and (2)(c), (2)(e) renum. from Accy 1.401 (2)(e), Register, June, 1982, No. 318, eff. 7-1-82; r. and recr. Register, April, 1986, No. 364, eff. 5-1-86.

**Accy 1.404 Incompatible occupations. (1)** A person who is engaged in practice as a certified public accountant, or public accountant, as defined in the statutes, shall not concurrently engage in any business or occupation which would create a conflict of interest rendering professional services.

**(2)** Interpretations of sub. (1) not intended to be all-inclusive, are as follows:

(a) Engaging concurrently with the practice of public accounting in any business or occupation inconsistent with the certified public accountant's or public accountant's responsibilities under the Wisconsin rules of conduct would constitute involvement in an incompatible occupation prohibited by sub. (1).

(b) The above proscription would apply to any business or occupation which:

1. Detracts from the public image of the profession, as for example, on legal grounds, or involves conduct which would constitute an act discreditable to the profession, or,

2. Impairs the certified public accountant's or public accountant's objectivity in rendering professional services to clients, or,
3. Inherently involves responsibilities which are likely to conflict with the certified public accountant's or public accountant's responsibility to others arising out of the client-certified public accountant or public accountant relationship.

(c) **A** conflict of interest exists when a certified public accountant or public accountant or firm of such persons who are licensed to practice in Wisconsin becomes associated with or employed by a nonlicensed individual or firm offering accounting, tax, or consulting services, such as those customarily provided by certified public accountants or public accountants, in a manner and with representation or implication that third parties could interpret or conclude that certified public accountant or public accountant services are performed or offered by both the nonlicensed individual or firms and the certified public accountant or public accountant. A conflict of interest also exists if the services of the licensed certified public accountant or public accountant or firm of such persons can be influenced or decisions altered by the noncertified associate or employer.

(d) **A** conflict of interest exists when a certified public accountant or public accountant who is not licensed permits his or her status as a certified public accountant or public accountant to be used or publicized in a manner or situation that third parties could assume or conclude that certified public accountant services are being performed or offered by or through nonlicensed individuals or firms.

**History:** Cr. Register, June, 1974, No. 222, eff. 7-1-74; cr. (2), Register, February, 1976, No. 242, eff. 4-1-76; r. and recr. Register, July, 1978, No. 271, eff. 9-1-78; cr. (2), Register, July, 1979, No. 283, eff. 9-1-79; renum. from Accy 1.504, Register, July, 1980, No. 295, eff. 8-1-80; am. (2) (intro.) and (a), Register, April, 1981, No. 304, eff. 5-1-81; cr. (2) (c) and (d), Register, June, 1982, No. 318, eff. 7-1-82; am. (2) (b) 1., Register, April, 1985, No. 352, eff. 5-1-85.

**Accy 1.405 Form of practice and name.** (1) Individuals or firms may practice as a certified public accountant in any organization form permitted by state law.

(a) No person licensed to practice as a certified public accountant, or public accountant, as defined in the statutes, may practice under a firm name which is misleading as to the type of organization. However, names of one or more past partners or shareholders may be included in the firm name of a successor partnership or corporation, provided that such persons were licensed or eligible to be licensed in accordance with requirements for all partners or shareholders of the successor partnership or corporation. Also a partner or shareholder surviving the death or withdrawal of all other partners or shareholders may continue to practice under the partnership or corporation name for up to 2 years after becoming a sole practitioner or shareholder.

(c) **A** firm may not designate itself as "Certified Public Accountants" unless all of its partners or shareholders are Certified public accountants.

(2) No person or firm engaged in practice as a certified public accountant or public accountant, as defined in ss. 442.02 and 442.07, Stats., may use a business name or designation that is misleading as to the number of individuals with an equity in the firm. **A** sole proprietor may not use a name implying multiple ownership such as "& Co." or "& Company" or "& Associates," or "Firm" or "Associates" or "Company," and a firm with multiple ownership may not use the name so that multiple ownership is not disclosed. A firm with multiple ownership may not imply in the firm's name that there are owners of the firm in addition to those specifically mentioned in the firm's name when no additional owners exist.

(3) Interpretations of s. Accy 1.405, not intended to be all-inclusive, are as follows:

(a) *Investment in commercial accounting corporation.* **A** certified public accountant or public accountant in the practice of

public accounting may have a financial interest in a commercial corporation which performs for the public services of a type performed by certified public accountants or public accountants and whose characteristics do not conform to resolutions of council of the American institute of certified public accountants, provided such interest is not material to the corporations' net worth, and the certified public accountant's or public accountant's interest in and relation to the corporation is solely that of an investor.

**History:** Cr. Register, June, 1974, No. 222, eff. 7-1-74; cr. (2), Register, December, 1974, No. 228, eff. 1-1-75; r. and recr. (1) (a), renum. (2) to be (3) and cr. (2), Register, February, 1976, No. 242, eff. 4-1-76; renum. from Accy 1.505 and am. (3) (intro.), Register, July, 1980, No. 295, eff. 8-1-80; am. (2) (intro.) and (a), Register, April, 1981, No. 304, eff. 5-1-81; am. (3) (a), Register, June, 1982, No. 318, eff. 7-1-82; am. (2), Register, July, 1983, No. 331, eff. 8-1-83; am. (1) (intro.) and (a), Register, January, 1985, No. 349, eff. 2-1-85; r. (1) (b), Register, February, 1990, No. 410, eff. 3-1-90; am. (1) (a), Register, February, 1992, No. 434, eff. 3-1-92; r. and recr. (1) (intro.), Register, May, 1994, No. 461, eff. 6-4-94.

**Accy 1.406 Practice while suspended.** No person who is licensed to practice as a certified public accountant, or public accountant, as defined in the statutes, who has been suspended, shall practice as a certified public accountant or public accountant during the period of such suspension.

**History:** Cr. Register, June, 1974, No. 222, eff. 7-1-74; renum. from Accy 1.506, Register, July, 1980, No. 295, eff. 8-1-80.

**Accy 1.407 Communications.** A certified public accountant shall, when requested, respond to communications from the board within 30 days of the mailing of such communications by registered or certified mail.

**History:** Cr. Register, July, 1978, No. 271, eff. 9-1-78; renum. from Accy 1.507, Register, July, 1980, No. 295, eff. 8-1-80.

**Accy 1.408 Ownership requirements.** (1) In this section "ownership interest" means any equity or voting interest in a firm.

(2) An applicant for a license as a certified public accounting firm shall demonstrate that more than 50% of the ownership interest of the firm is held by individuals who hold certificates or licenses to practice as a certified public accountant issued under the laws of any state or foreign country.

(3) A firm applying for licensure meets the ownership requirement under sub. (2) in the following circumstances:

(a) If the applicant is a sole proprietorship and the owner holds a certificate and license to practice as a certified public accountant issued under the laws of this state.

(b) If the applicant is organized as a service corporation and more than 50% of the voting rights are held by individuals who are certified public accountants.

(c) If the applicant is organized as a business corporation and more than 50% of the voting rights are held by individuals who are certified public accountants.

(d) If the applicant is organized as a partnership or limited liability partnership and more than 50% of the voting rights are held by individuals who are certified public accountants.

(e) If the applicant is organized as a limited liability company and more than 50% of the voting rights are held by individuals who are certified public accountants.

(4) An applicant firm with ownership characteristics other than those identified in sub. (3) may submit information about the ownership interests of all members of the firm to the board. The board may determine that more than 50% of the ownership interest of the firm is held by individuals who hold certificates or licenses to practice as a certified public accountant. In making this determination the board shall consider whether ownership interest of all members of the firm results in control and management of the firm by individuals who hold certificates or licenses to practice as a certified public accountant.

**History:** CR 02-052; cr. Register December 2002 No. 564, eff. 1-1-03.

## Chapter Accy 3

### EXAMINATIONS

Accy 3.01	Authority.	Accy 3.06	Reexamination.
Accy 3.02	Examinations.	Accy 3.07	Transition rules.
Accy 3.03	Certified public accountant examination.	Accy 3.08	Examination grades of other states
Accy 3.04	Education.	Accy 3.09	Cheating on examination.
Accy 3.05	Examination application.	Accy 3.10	Professional ethics examination.
Accy 3.055	Verification of graduation after examination; release or invalidation of examination scores.	Accy 3.11	Examination review.

Note: Chapter Accy 3 as it existed on November 30, 1993 was repealed and a new chapter Accy 3 was created effective December 1, 1993.

**Accy 3.01 Authority.** The rules in this chapter are adopted pursuant to the authority in ss. 15.08(5)(b), 227.11(2) and 442.04(5), Stats.

History: Cr. Register, November, 1993, No. 455, eff. 12-1-93.

**Accy 3.02 Examinations.** A candidate for a certified public accountant certificate shall successfully pass the certified public accountant examination set forth in s. Accy 3.03 and the professional ethics examination set forth in s. Accy 3.10.

History: Cr. Register, November, 1993, No. 455, eff. 12-1-93.

**Accy 3.03 Certified public accountant examination.** (1) The subjects covering the discipline of accounting in the certified public accountant examination shall be as provided in the 4 sections of the board of examiners of the American institute of certified public accountants uniform certified public accountant examination. The passing grade on each section is 75 or higher.

Note: The 4 sections of the examination are Accounting Practice (Part I and Part II), Accounting Theory, Auditing, and Business Law. Commencing with the examination to be given in May, 1994, the 4 sections of the examination will be Accounting and Reporting, Financial Accounting and Reporting, Auditing, and Business Law and Professional Responsibilities.

(2) Examinations shall be graded by the board of examiners of the American institute of certified public accountants advisory grading service.

History: Cr. Register, November, 1993, No. 455, eff. 12-1-93.

**Accy 3.04 Education.** A candidate for the certified public accountant examination must possess a bachelor's or higher degree with a resident major in accounting, as defined in s. Accy 7.02(3), or the reasonable equivalence of a resident major in accounting, as defined in s. Accy 7.03(1), or reasonably expect to receive a degree with a resident major in accounting or its reasonable equivalence within 45 days following the date of examination.

History: Cr. Register, November, 1993, No. 455, eff. 12-1-93, r. and recr. Register, March, 1996, No. 483, eff. 4-1-96.

**Accy 3.05 Examination application.** (1) A candidate for the certified public accountant examination shall apply on an application form provided by the board and file the application in the board office no later than 60 days prior to the examination date. The application shall be supported by all of the following:

- The appropriate fee authorized in s. 440.05, Stats.
- Proof of fulfilling the educational requirements, by submitting either:
  - Certified copies of transcripts for all academic work completed at an institution, as defined in s. 442.04(4)(a), Stats., at least one of which must reflect the award of a bachelor's or higher degree, if the candidate has graduated prior to filing the application.
  - Verification from an institution, as defined in s. 442.04(4)(a), Stats., that the candidate is expected to graduate with a resi-

dent major in accounting within 60 days following the examination date.

3. Certified copies of transcripts for all academic work completed at an institution, as defined in s. 442.04(4)(a), Stats., a list of all courses in which the candidate is currently enrolled, and verification from the institution that the candidate is expected to graduate within 60 days following the examination date, if the candidate expects to receive the reasonable equivalence of a resident major in accounting.

(c) Request for accommodation of disability, if applicable.

(2) The board shall notify a candidate of the examination site when the completed application has been accepted by the board.

(3) Applicants who have the educational requirements by the application deadline may apply to take the next scheduled examination, but no certified public accountant certificate may be issued until all other requirements are met.

Note: Application forms are available upon request to the board office located at 1400 East Washington Avenue, P.O. Box 8935, Madison, WI 53708.

History: Cr. Register, November, 1993, No. 455, eff. 12-1-93; r. and recr. Register, March, 1996, No. 483, eff. -1-1-96; am. (1)(b) 2. and 3., Register, January, 1999, No. 517, eff. 2-1-99.

**Accy 3.055 Verification of graduation after examination; release or invalidation of examination scores.** (1) A candidate permitted to sit for the examination upon the basis of reasonably expecting to receive a bachelor's or higher degree with a resident major in accounting or the reasonable equivalence of a resident major in accounting within 60 days following the examination must submit certified copies of transcripts for all academic work completed at an institution, at least one of which must reflect the award of a bachelor's or higher degree, to the board office within 120 days following the date of the examination.

(2) The examination scores of a candidate who fails to submit the required documentation shall not be released until the required documentation is submitted.

(3) A candidate who fails to receive a bachelor's or higher degree with a resident major in accounting or the reasonable equivalence of a resident major in accounting within 60 days following the examination shall be deemed ineligible to have taken the examination, and the scores shall be deemed null and void.

History: Cr. Register, March, 1996, No. 483, eff. 4-1-96; am. (1) and (3). Register, January, 1999, No. 517, eff. 2-1-99.

**Accy 3.06 Reexamination.** (1) If on the first examination a candidate passes all 4 sections or on reexamination the candidate passes the sections which were failed or for which credit was not received, the candidate shall be eligible for the certified public accountant certificate, provided the educational requirements specified in ch. Accy 7 and the experience requirements specified in ch. Accy 5 are met.

(2) A candidate who does not receive a grade of at least 75 upon each of the 4 sections on the first examination may retake the examination as follows:

(a) If the candidate passes 3 sections on the first examination, but fails one section, the candidate may retake the failed section at any 2 of the following 4 examination dates. If the candidate fails to pass the remaining section within the next 4 examination dates, the candidate shall retake the entire examination.

(b) If the candidate passes 2 sections on the first examination and receives a grade of 50 or more upon both failed sections, the candidate may retake the remaining failed sections at any 2 of the following 4 examination dates.

1. If upon retaking the 2 failed sections the candidate receives a grade of 75 or more upon one section but fails the other section with a grade of 50 or more, the candidate shall be credited with having passed one section and shall be permitted to retake the failed section. If the candidate fails the remaining section at the retake, the candidate shall retake the entire examination.

2. If upon retaking the 2 failed sections the candidate receives a grade of 75 or more upon one section but fails to obtain a grade of 50 or more upon the other section, or fails to receive a 75 upon either section, the candidate shall not be credited with having passed either section. If the candidate fails to pass both sections at the retake, the candidate shall retake the entire examination.

3. If upon retaking the 2 failed sections the candidate fails to receive a grade of 75 upon either section but obtains a grade of 50 or more upon both sections, the candidate shall be permitted to retake the failed sections. If the candidate fails to receive a grade of 75 on both sections at the retake, the candidate shall retake the entire examination.

(c) If the candidate passes 2 sections on the first examination but receives a grade of less than 50 upon either or both failed sections, the candidate shall retake the entire examination.

(d) If the candidate passes only one section on the first examination, the candidate shall retake the entire examination.

(3) A candidate who is absent from writing the examination due to service in the armed forces of the United States government and for 6 months thereafter will not be regarded as being absent when evidence of the relevant service in the armed forces is established with the board.

History: Cr. Register, November, 1993, No. 455, eff. 12-1-93.

**Accy 3.07 Transition rules.** A candidate who successfully passes a section on the certified public accountant examination given before May 1, 1994, shall be deemed to have passed the following corresponding section of the examination given on or after May 1, 1994:

(1) A candidate passing the accounting practice sections shall be deemed to have passed the accounting and reporting section.

(2) A candidate passing the accounting theory section shall be deemed to have passed the financial accounting and reporting section.

(3) A candidate passing the auditing section shall be deemed to have passed the auditing section.

(4) A candidate passing the business law section shall be deemed to have passed the business law and professional responsibilities section.

History: Cr. Register, November, 1993, No. 455, eff. 12-1-93; am. Register, August, 1995, No. 476, eff. 9-1-95.

**Accy 3.08 Examination grades of other states.** A candidate for the C.P.A. certificate who becomes domiciled in this state, and who has acquired examination passing credits under the uniform examination of another state, may apply for acceptance of those credits by this state, toward fulfillment of the requirements for a C.P.A. certificate in this state. The board may accept such credits if the candidate could have otherwise qualified as a candidate in this state.

History: Cr. Register, November, 1993, No. 455, eff. 12-1-93.

**Accy 3.09 Cheating on examination.** (1) Cheating on the certified public accountant examination is a serious breach of

integrity and indicates a lack of good professional character. Cheating on an examination includes, but is not limited to:

(a) Communications concerning an examination being written between candidates inside or outside of the examination room, or copying another's answers.

(b) Communications concerning an examination being written with accomplices outside of the examination room.

(c) Substitution by a candidate of another person to sit in the examination room for the candidate and write one or more of the examination questions or papers for the candidate.

(d) Reference to "crib notes," test books or other materials inside or outside the examination room during periods examinations are being written.

(e) Divulging the nature or content of any examination question or answer to any individual or entity subsequent to the conclusion of the examination.

(f) Removing any examination materials, notes or other similar materials from the examination room.

(2) Penalties imposed by the board for cheating on the examination shall be related to the seriousness of the offense. Cheating which was planned in advance is the most serious offense. Penalties may include the entering of a failing grade on all sections written for the examinations in which cheating occurred and suspension of the right to write the next scheduled examination after the examination in which cheating occurred or to the entering of a failing grade on all sections written for the examinations in which cheating occurred and suspension of the right to write for as many as the next 6 scheduled examinations after the examination in which cheating occurred. Time within which conditional credit previously earned for passing part of the examination may be extended by board action in situations where penalties are levied, and by as long as the period of suspension.

(3) If more than one candidate is involved in a connected offense of cheating on an examination, each candidate knowingly involved in the cheating is subject to penalties.

(4) Other jurisdictions to which a candidate may apply to write the certified public accountant examination during a period of suspension of the right to write shall be notified of the penalty levied in Wisconsin.

History: Cr. Register, November, 1993, No. 455, eff. 12-1-93; cr. (1) (e) and (f), Register, March, 1996, No. 483, eff. 4-1-96.

**Accy 3.10 Professional ethics examination.** (1) A candidate for a certified public accountant certificate shall successfully pass an open book professional ethics examination on statutes and rules governing the practice of public accounting in Wisconsin.

(2) The passing grade on the professional ethics examination is 80.

(3) A candidate who fails to achieve a passing score on the professional ethics examination is not eligible for reexamination for 30 days following notification of the failure. A candidate who fails to achieve a passing score upon reexamination is not eligible for another reexamination for 90 days following notification of the reexamination failure.

History: Cr. Register, November, 1993, No. 455, eff. 12-1-93.

**Accy 3.11 Examination review.** (1) Applicants for the certified public accountant examination may request a review of their examination papers from the American institute of certified public accountants advisory grading service.

(2) An applicant who fails the professional ethics examination may request a review of the examination. The following conditions apply:

(a) The applicant shall file a written request to the board within 30 days of the date on which examination results were mailed and pay the fee under s. RL 4.05.

(b) Examination reviews are by appointment only and shall be limited to one hour.

(c) Reviews shall be conducted prior to the time an applicant applies to retake the examination.

(d) An applicant may review each failed examination only once.

(e) The examination may be reviewed by telephone. During a telephone review an applicant shall be provided with the statute or administrative code reference number and the topic of the test

questions the applicant failed

(f) An applicant may not be accompanied during the review by any person other than the proctors.

(g) Bound reference books shall be permitted in the review.

(h) Applicants may not remove any notes from the review. Notes shall be retained by the proctor.

(i) The proctor shall not respond to inquiries by the applicant regarding allegations of examination error.

**History:** Cr **Register**, March, 1996, No. 483, eff. 4-1-96.

## Chapter Accy 4

### BIENNIAL REGISTRATION

Accy 4.01 More than one office.  
Accy 4.02 Individual and firm registration.  
Accy 4.03 Individual registration of sole proprietor.  
Accy 4.035 Requirements for late renewal; reinstatement  
Accy 4.04 Names or designations not to be misleading.  
Accy 4.05 Applications for registration.  
Accy 4.06 Firms without office in this state.

Accy 4.07 Reporting of nonresident partners.  
Accy 4.08 Fees.  
Accy 4.09 Out-of-state firm with a bona fide office in Wisconsin but no resident partner or stockholder.  
Accy 4.10 Registration of service corporations.  
Accy 4.11 Changes.

**Accy 4.01 More than one office.** A proprietorship, partnership or corporation with more than one office in Wisconsin is required to register only once.

**History:** Cr. Register, May, 1974, No. 221, eff. 6-1-74.

**Accy 4.02 Individual and firm registration.** All Wisconsin resident partners, stockholders and others with an equity interest in a firm of public accountants or certified public accountants shall register as individuals. In addition, all resident firms with which they are associated shall register except as specified in s. Accy 4.03. An application for registration shall be granted or denied within 30 business days after receipt of a completed application.

**History:** Cr. Register, May, 1974, No. 221, eff. 6-1-74; r. and recr. Register, February, 1976, No. 242, eff. 3-1-76; am. Register, April, 1986, No. 364, eff. 5-1-86.

**Accy 4.03 Individual registration of sole proprietor.** A sole proprietor practicing in his or her own name shall register as an individual. One so registered may also register as a firm. An application for registration shall be granted or denied within 30 business days after receipt of a completed application.

**History:** Cr. Register, May, 1974, No. 221, eff. 6-1-74; am. Register, April, 1986, No. 364, eff. 5-1-86.

**Accy 4.035 Requirements for late renewal; reinstatement. (1)** An individual certified public accountant who files an application for renewal of a license within 5 years after the renewal date may be reinstated by filing with the board:

(a) An application for renewal on a form prescribed by the department.

(b) The fee specified in s. 440.08 (2), Stats., plus the applicable late renewal fee as specified in s. 440.08 (3), Stats.

(2) An individual certified public accountant who files an application for renewal 5 years or more after the renewal date may be reinstated by filing with the board:

(a) An application for renewal on a form prescribed by the department.

(b) The fee specified in s. 440.08 (2), Stats., plus the applicable late renewal fee as specified in s. 440.08 (3), Stats.

(c) Verification of successful completion of examinations specified in ch. Accy 3, or education specified in ch. Accy 7, or both, as the board may prescribe.

**History:** Cr. Register, March, 1996, No. 483, eff. 4-1-96.

**Accy 4.04 Names or designations not to be misleading.** Applicants shall not submit for registration names or designations which are misleading.

**History:** Cr. Register, May, 1974, No. 221, eff. 6-1-74.

**Accy 4.05 Applications for registration.** Registration shall be by application which is to include such information relating to identification, professional competence, and conduct as may be specified by the board.

**History:** Cr. Register, May, 1974, No. 221, eff. 6-1-74.

**Accy 4.06 Firms without office in this state.** Firms without a bona fide office in this state may apply for registration if there is a licensed Wisconsin certified public accountant designated as the manager for the Wisconsin engagement or engagements. All other nonresident partners, stockholders and others with an equity interest in the firm must have certified public accountant certificates in good standing and be licensed to practice in the state of their resident office.

**History:** Cr. Register, May, 1974, No. 221, eff. 6-1-74; r. and recr. Register, February, 1976, No. 242, eff. 3-1-76; am. Register, February, 1992, No. 434, eff. 3-1-92.

**Accy 4.07 Reporting of nonresident partners. (1)** Non-resident partners of firms registered to practice in Wisconsin, or their corporate counterparts, shall register to participate as individuals in Wisconsin when such partner has direct responsibility and authority in the Wisconsin practice. An application for registration shall be granted or denied within 30 business days after receipt of a completed application.

(2) Except as noted in sub. (1), firms with a bona fide office in this state are not required to register non-resident partners, stockholders or others with an equity interest in the firm, but these must be reported in writing to the board at the time of biennial registration and must be holders of certified public accountant certificates in good standing and be licensed to practice from the state or other state jurisdiction of their resident office.

**History:** Cr. Register, May, 1974, No. 221, eff. 6-1-74; r. and recr. Register, February, 1976, No. 242, eff. 3-1-76; am. Register, October, 1976, No. 250, eff. 11-1-76; am. (2), Register, December, 1978, No. 276, eff. 1-1-79; am. Register, April, 1986, No. 364, eff. 5-1-86; reprinted to restore dropped copy, Register, March, 1987, No. 375.

**Accy 4.08 Fees.** Fees shall be those specified in s. 440.05, Stats.

**History:** Cr. Register, May, 1974, No. 221, eff. 6-1-74; am. Register, October, 1974, No. 226, eff. 11-1-74; r. and recr. Register, December, 1978, No. 276, eff. 1-1-79.

**Accy 4.09 Out-of-state firm with a bona fide office in Wisconsin but no resident partner or stockholder.**

(1) Out-of-state firms with a bona fide Wisconsin office, as defined in sub. (2), but with no Wisconsin resident partner or stockholder, may be registered to practice in Wisconsin provided that there is a licensed Wisconsin certified public accountant designated as resident manager for the Wisconsin practice office and all of the partners or stockholders of the out-of-state practice office with responsibility for the Wisconsin practice office are licensed in Wisconsin. Firms so licensed must have designated one or more partners or stockholders from the out-of-state office responsible for the practice from the bona fide Wisconsin office, as the managing partner(s) or stockholder(s) for the Wisconsin practice. All other non-resident partners, stockholders and others with an equity interest in the firm (in other out-of-state practice offices) must hold certified public accountant certificates in good standing and be licensed to practice in the state of their resident office.

(2) A bona fide office is one which has the following characteristics:

(a) *Office facilities.* Readily identifiable as the certified public accountant's separate office.

(b) *Supervision.* Work performed by or through the office is under the direct supervision of one or more certified public accountants.

(c) *Certified public accountant availability.* A certified public accountant is present in the office on a regular basis and frequently.

(d) *Staffing.* During normal business hours, there is present in the office a partner or proprietor of the firm or a person employed by the firm. This requirement will not be applicable where the firm has but one office.

**History:** Cr. Register, February, 1976, No. 242, eff. 3-1-76; renum. to be (1) and am., cr. (2), Register, December, 1978, No. 276, eff. 1-1-79; r. and recr. (1), Register, February, 1980, No. 290, eff. 3-1-80.

#### **Accy 4.10 Registration of service corporations. (1)**

A service corporation shall register as a firm to practice in Wisconsin. Any service corporation shall be incorporated and appropriately registered under ch. 180, Stats., and be licensed as a firm to practice in Wisconsin. An application for registration shall be granted or denied within 30 business days after receipt of a completed application.

(2) All stockholders of a service corporation registered to practice in Wisconsin must also be registered to practice as individuals.

(3) Service corporations registered to practice must be in compliance with ss. 180.1901 to 180.1921, Stats. This includes proper registration with the secretary of state and the register of deeds for the county in which the firm is located or has its principal office, and the filing of the required annual report.

(4) The corporate name of a service corporation may not be misleading by including a designation such as "and Company" or "and Associates" or "Company" or "Associates" or "Firm" when there is only one stockholder or when all stockholders are listed in the name of the corporation.

(5) In accordance with s. 180.1913, Stats., a service corporation with only one stockholder may have only one director, who shall be the stockholder and who shall serve both as president and treasurer. Other officers in this situation need not be certified public accountants or public accountants registered in Wisconsin, but such other officers cannot be stockholders. Such other officers must be reported at the time of biennial registration, and the board informed within 30 days after any change in status.

(6) Provisions of s. Accy 4.10 are applicable to all professional certified public accountant service corporations operating in Wisconsin. It is noted that there is no provision in Wisconsin statutes for licensing foreign (out-of-state) professional certified public accountant service corporations.

**History:** Cr. Register, February, 1976, No. 242, eff. 3-1-76; am. (5), Register, December, 1978, No. 276, eff. 1-1-79; cr. (6), Register, February, 1980, No. 290, eff. 3-1-80; am. (1), Register, July, 1980, No. 295, eff. 8-1-80; am. (4), Register, July, 1983, No. 331, eff. 8-1-83; am. Register, April, 1986, No. 364, eff. 5-1-86; reprinted to restore dropped copy, Register, March, 1987, No. 375; correction in (3) and (5) made under s. 13.93(2m)(b) 7., Stats., Register, February, 1992, No. 434.

**Accy 4.11 Changes. (1)** The board is to be notified in writing of prospective changes in proprietors, partners or stockholders or firm name for continuing practice units or is to be notified of the consummation of such changes no later than 30 days after the change.

(2) Reorganizations, mergers, or comparable changes in which a new practice unit is created must make application and the new practice unit licensed before practice can be commenced.

**History:** Cr. Register, February, 1980, No. 290, eff. 3-1-80.

## Chapter Accy 5

### EXPERIENCE EVALUATIONS

Accy 5.01	Definitions.
Accy 5.02	Review dates.
Accy 5.03	Time of evaluation.
Accy 5.04	Public accounting experience.
Accy 5.05	Experience in industry and government
Accy 5.06	Experience in teaching.

Accy 5.07	Experience in law.
Accy 5.08	Experience; general.
Accy 5.09	Bookkeeping and elementary individual <b>tax</b> return preparation.
Accy 5.10	Self-employment.
Accy 5.11	Confidentiality.
Accy 5.12	Judgment.

**Accy 5.01 Definitions.** The terms used in ch. 442, Stats., and/or in this chapter are defined as follows:

**(1) JUNIOR IN PUBLIC PRACTICE.** A junior in public practice is a person employed as an accounting professional in a firm registered (licensed) to practice certified public accountancy. A junior in public practice receives assignments from a supervising accountant and follows audit programs and other engagement plans as directed. The junior in public practice is acquiring proficiency in performance of assigned accounting tasks and a sound knowledge and understanding of the discipline of accounting, judgment in auditing and its theory and techniques, and general competency in work performed and decisions required. A professional bearing with ethical understanding is being acquired in depth. The junior accountant is preparing for advancement to senior status through acceptance of responsibility, development of competence in accounting, tax and management advisory service matters, and meeting the technical requirements for functioning independently as a technically competent professional who is capable of performing at the level at which decisions must be made.

**(2) SENIOR IN PUBLIC PRACTICE.** A senior in public practice is a person employed as a professional in a firm registered (licensed) to practice certified public accountancy. A senior in public practice is one skilled in technical knowledge and qualified by experience to take charge of the field work of a medium-sized or large audit engagement, including tax and management advisory service matters and to make recommendations concerning the financial information systems and procedures. The senior is at the level of responsibility for independent decisions and must have attained high levels of knowledge, competence, and judgment in accounting matters.

**History:** Cr. Register, October, 1976, No. 250, eff. 11-1-76; correction made under s. 13.93(2m) (b) 1., Register, March, 1993, No. 447.

**Accy 5.02 Review dates.** Following the successful passing of the written uniform CPA examination and upon written request by a candidate, a candidate's experience will be reviewed by the board. The written request shall include employer verification statements and information on experience to update the experience data already in the candidate's file. Such evaluation will determine whether the candidate qualifies at that time under the requirement of 1½ years of accounting experience equivalent to that of a senior in public practice. The board shall inform the candidate if additional experience is needed. Upon gaining the required additional experience, the candidate shall notify the board and provide verification.

**History:** Cr. Register, December, 1974, No. 228, eff. 1-1-75; renum. from Accy 5.01, Register, October, 1976, No. 250, eff. 11-1-76; r. (4), Register, April, 1986, No. 364, eff. 5-1-86; renum. and am. (1), r. (2) and (3), Register, February, 1990, No. 410, eff. 3-1-90.

**Accy 5.03 Time of evaluation.** (1) The board shall evaluate accounting experience at each regularly scheduled board meeting. Evaluations can be made at special meetings, but normally will not be scheduled at such meetings.

**(2)** The board will review the candidate's experience on written request by the candidate.

**History:** Cr. Register, December, 1974, No. 228, eff. 1-1-75; wnum. from Accy 5.02, Register, October, 1976, No. 250, eff. 11-1-76.

**Accy 5.04 Public accounting experience.** An individual must have at least one year of public accounting experience or its equivalent as determined by the board. Experience shall be acquired after the applicant has earned a degree as described in s. 442.04, Stats., that qualifies the applicant to take the CPA examination.

**History:** Cr. Register, December, 1974, No. 228, eff. 1-1-75; renum. from Accy 5.03, Register, October, 1976, No. 250, eff. 11-1-76; **CR 01-047: am. Register December 2002 No. 564, eff. 1-1-43.**

**Accy 5.05 Experience in industry and government.** The basic guideline followed is that experience in accounting in industry and government is senior when at a level with responsibility for independent accounting decisions, and requires high levels of knowledge, competence, and judgment.

**History:** Cr. Register, December, 1974, No. 228, eff. 1-1-75; renum. from Accy 5.04, Register, October, 1976, No. 250, eff. 11-1-76.

**Accy 5.06 Experience in teaching.** The basic guideline followed is that experience in teaching accounting is senior when teaching is at the advanced and specialized level of accounting. Teaching courses in areas other than accounting does not qualify.

**History:** Cr. Register, December, 1974, No. 228, eff. 1-1-75; renum. from Accy 5.05, Register, October, 1976, No. 250, eff. 11-1-76.

**Accy 5.07 Experience in law.** (1) The basic guideline followed is that experience in law is senior when at a level with responsibility for independent accounting decisions, and requires high levels of accounting knowledge, competence, and judgment.

**(2)** The practice of law is not by itself considered equivalent unless consistent with sub. (1).

**History:** Cr. Register, December, 1974, No. 228, eff. 1-1-75; renum. from Accy 5.06, Register, October, 1976, No. 250, eff. 11-1-76; am. (2), Register, December, 1978, No. 276, eff. 1-1-79.

**Accy 5.08 Experience; general.** (1) The nature and level of an employee's position or job title and description is considered.

**(2)** Experience under s. Accy 5.04 shall establish the minimum requirement in all situations.

**(3)** Activities that are normally performed and are characteristic of employment other than in public practice will assume to have been performed, and are not considered as practice on the level of either a junior or senior in public practice.

**(4)** Part-time employment can be counted proportionately, but normally is given little weight at the senior level. If part-time employment is combined with full-time employment, the full-time employment is normally given the most weight.

**(5)** No more than one day of experience is allowed for any calendar day.

**History:** Cr. Register, December, 1974, No. 228, eff. 1-1-75; renum. from Accy 5.07, Register, October, 1976, No. 250, eff. 11-1-76; am. Register, December, 1978, No. 276, eff. 1-1-79.



**Accy 5.09 Bookkeeping and elementary individual tax return preparation.** Bookkeeping and elementary individual tax return preparation are generally not considered to be qualifying experience at the level of either a junior or senior in public practice.

**History:** Cr. Register, December, 1974, No. 228, eff. 1-1-75; renum. from Accy 5.08, Register, October, 1976, No. 250, eff. 11-1-76.

**Accy 5.10 Self-employment.** Self-employment must be fully documented by the candidate and presented in detail for board consideration. Candidates establishing such experience will normally be expected to appear in person before the board to establish his or her qualifications.

**History:** Cr. Register, December, 1974, No. 228, eff. 1-1-75; renum. from Accy 5.09, Register, October, 1976, No. 250, eff. 11-1-76.

**Accy 5.11 Confidentiality.** No employer, relative, or other interested person may review a candidate file without express permission in writing of the candidate to the board, and from the secretary of the board.

**History:** Cr. Register, December, 1974, No. 228, eff. 1-1-75; renum. from Accy 5.10, Register, October, 1976, No. 250, eff. 11-1-76.

**Accy 5.12 Judgment.** Experience evaluations, prior guidelines notwithstanding, are based on the judgment of the board as to the amount of experience necessary for a given candidate to attain  $1\frac{1}{2}$  years of experience at the level of a senior in public practice.

**History:** Cr. Register, December, 1974, No. 228, eff. 1-1-75; renum. from Accy 5.11, Register, October, 1976, No. 250, eff. 11-1-76.

## Chapter Accy 7

### EDUCATION

Accy 7.01	General.
Accy 7.02	Definitions.
Accy 7.03	Reasonable equivalence of a resident major in accounting.
Accy 7.035	Education requirement effective January 1, 2001.

Accy 7.04	Transfer of credit applicant.
Accy 7.05	Certificate by endorsement evaluation.
Accy 7.06	Public information.
Accy 7.07	Expiration of applications.

**Accy 7.01 General.** The purpose of this chapter is to clarify the application of s. 442.04 (4), Stats., as it relates to the education required to write the certified public accountant examination, to transfer examination credits from other jurisdictions, or to qualify for endorsement qualification.

**History:** Cr. Register, October, 1976, No. 250, eff. 11-1-76; am. Register, April, 1988, No. 388, eff. 5-1-88.

**Accy 7.02 Definitions. (1)** A bachelor's degree is a baccalaureate degree normally conferred by universities and colleges at the completion of at least a 4-year, full-time, academic-year program of study. (Some students complete the 4-year bachelor's degree in less than 4 years by attending summer school or maximum course loads over a number of academic semesters.)

**(2)** Regional equivalents of the north central association of colleges and schools are the New England association of schools and colleges, middle states association of colleges and secondary schools, northwest association of schools and colleges, southern association of colleges and schools, and western association of schools and colleges.

**(3)** A "resident major in accounting" is a course of study identified by a school accredited by the north central association of colleges and schools or its regional equivalent as a major in accounting. Where more than one course of accounting study is offered by a school, the course of study for public accounting shall be the defined "resident major in accounting."

**History:** Cr. Register, October, 1976, No. 250, eff. 11-1-76; r. and recr. Register, July, 1979, No. 282, eff. 8-1-79.

**Accy 7.03 Reasonable equivalence of a resident major in accounting. (1)** The "reasonable equivalence of a resident major in accounting" for individuals having a bachelor's or higher degree but no resident major in accounting shall be as follows:

(a) Two college-level courses in math or math at the level necessary for admission to the first course in calculus.

(b) Four of the 5 courses that follow: statistics, marketing, business finance, management or organizational behavior, computer science or computers in business.

(c) Two courses in principles of economics.

(d) At least one course in each of the following: introductory or principles of accounting, intermediate accounting or accounting theory, advanced accounting, cost accounting, auditing, income taxation, and business law.

**(2)** An applicant for a certificate as a certified public accountant shall submit to the board an official transcript or transcripts of all academic work completed evidencing the awarding of a bachelor's or higher degree and a written request for an equivalency evaluation. Course work for equivalency may be accepted only if completed at an institution accredited by the north central association of colleges and schools or its regional equivalent or if it could be transferred to an accredited institution for credit toward the institution's accounting major.

**(3)** Applicants shall be informed in writing by the board of educational equivalency or of program deficiencies. Applicants with educational deficiencies shall submit evidence of satisfac-

tory completion of deficient course work prior to being granted a certificate.

**History:** Cr. Register, October, 1976, No. 250, eff. 11-1-76; r. and recr., Register, July, 1979, No. 282, eff. 8-1-79; am. (2), Register, January, 1985, No. 349, eff. 2-1-85; am. (2) and (3), Register, February, 1992, No. 434, eff. 3-1-92.

**Accy 7.035 Education requirement effective January 1, 2001.** Pursuant to s. 442.04 (4), Stats., after December 31, 2000, a person may not take the examination leading to the certificate to practice as a certified public accountant unless the person has, as part of the 150 semester hours education, met one of the following conditions:

**(1)** Earned a graduate degree with a concentration in accounting from an accounting program or department that is accredited by an accrediting agency recognized by the board.

**(2)** Earned a graduate degree from a business school or college of business that is accredited by an accrediting agency recognized by the board and completed at least 24 semester hours in accounting at the undergraduate level or 15 semester hours at the graduate level, or an equivalent combination, including courses covering the subjects of financial accounting, auditing, taxation, and management accounting.

**(3)** Earned a baccalaureate degree with a major in accounting from a business school or college of business that is accredited by an accrediting agency recognized by the board including all of the following:

(a) At least 24 semester hours in accounting at the undergraduate or graduate level, including courses covering the subjects of financial accounting, auditing, taxation, and management accounting.

(b) At least 24 semester hours in business courses, other than accounting courses, at the undergraduate or graduate level.

**(4)** Having obtained the reasonable equivalent of an accounting concentration by having earned a baccalaureate or higher degree from an accredited educational institution including all of the following:

(a) At least 24 semester hours of accounting, including courses covering the subjects of financial accounting, auditing, taxation, and management accounting.

(b) At least 24 semester hours in business courses, other than accounting courses, at the undergraduate or graduate level.

**Note:** In accounting, the courses covering the subjects of financial accounting, auditing, taxation, and management accounting under s. Accy 7.035 (3) (a) and (4) (a), would normally be all courses taken beyond the introduction level.

**(5)** Whether or not the person has 150 semester hours education, has graduated with a bachelor's or higher degree with a resident major in accounting, or its reasonable equivalence, prior to January 1, 2001.

**History:** Cr. Register, November, 1997, No. 503, eff. 12-1-97; am. (intro) and cr. (5), Register, January, 1999, No. 517, eff. 2-1-99.

**Accy 7.04 Transfer of credit applicant. (1)** Applicants who have passed all or part of the uniform Certified public accountant examination in another jurisdiction but who have not yet received their certified public accountant certificate shall be able to transfer grades in subjects passed to Wisconsin provided that:

(a) Grades transferred must be certified to the board by the other jurisdiction and must be passed in accordance with rules applicable to Wisconsin candidates.

(b) Transfer of grades must be accepted by board action and the applicant notified in a manner similar to the action on grades for Wisconsin applicants.

(2) Applicants who do not meet the educational requirements to write in Wisconsin must do so prior to writing any additional parts of the examination or advancing further toward the receipt of a Wisconsin certified public accountant certificate.

**History:** Cr. Register, October, 1976, No. 250, eff. 11-1-76; renum. from Accy 7.07, Register, July, 1979, No. 282, eff. 8-1-79.

#### **Accy 7.05 Certificate by endorsement evaluation.**

(1) An applicant may receive a certified public accountant certificate by endorsement if the applicant satisfies one of the following requirements:

(a) The applicant meets the Wisconsin requirements for the certified public accountant certificate existing at the time of the application.

(b) The applicant provides evidence satisfactory to the board that he or she meets all of the following requirements:

1. The applicant holds a current certificate as a certified public accountant issued by another state.

2. The applicant has passed the uniform certified public accountant examination.

3. The applicant has practiced in good standing at the senior level, as accepted under ch. Accy 5, for at least 5 years following

initial licensure within the 10 years immediately preceding application under this section; or the applicant has practiced public accounting for at least 5 years following initial licensure and demonstrates that he or she has participated in a program of continuing professional education which is satisfactory to the board.

(2) Educational evaluations shall be made by the board, and shall consider all evidence in satisfaction of equivalent education as submitted by the applicant in accordance with s. 442.05, Stats.

**History:** Cr. Register, October, 1976, No. 250, eff. 11-1-76; renum. from Accy 7.08, Register, July, 1979, No. 282, eff. 8-1-79; am. Register, April, 1988, No. 388, eff. 5-1-88; r. and recr. (l), Register, February, 1990, No. 410, eff. 3-1-90.

**Accy 7.06 Public information.** The board will release statistical studies of grades earned on each certified public accountant examination by each subject area and Wisconsin school at which educational qualification of candidates to write exists. Individual grades will not be released. Reports will be designed to provide schools and the public with information on candidate success.

**History:** Cr. Register, October, 1976, No. 250, eff. 11-1-76; renum. from Accy 7.09, Register, July, 1979, No. 282, eff. 8-1-79.

**Accy 7.07 Expiration of applications.** If an applicant for a certificate to practice as a certified public accountant does not comply with a request for information related to his or her application within one year from the date the first request for information was made, the application expires. The applicant may file a new application if his or her application expires under this section.

**History:** Cr. Register, August, 1992, No. 440, eff. 9-1-92.

## Chapter Accy 8

### ENDORSEMENT QUALIFICATIONS

Accy 8.01 Authority and purpose.  
Accy 8.02 Substantial equivalence

Accy 8.03 Citizenship and residency.  
Accy 8.04 Foreign candidates.

**Accy 8.01 Authority and purpose. (1)** The rules in this chapter are adopted to interpret ss. 442.04 and 442.05, Stats.

**History:** Cr. Register, February, 1980, No. 290, eff. 3-1-80.

**Accy 8.02 Substantial equivalence.** Substantial equivalence does not mean identical, rather it means equivalence in substance.

**History:** Cr. Register, February, 1980, No. 290, eff. 3-1-80.

**Accy 8.03 Citizenship and residency. (1)** Candidates are not required to be citizens of the United States.

**(3)** Each candidate must qualify under Wisconsin requirements for education, experience, examination, good professional character, and professional ethics.

**(4)** Requirements are the same under s. 442.05, Stats., as s. 442.04, Stats., except that holders of certified public accountant certificates in good standing from other jurisdictions are permitted to qualify under experience requirements if they received their certified public accountant certificates prior to **July 1, 1968**, under the grandfather provisions applicable to Wisconsin candidates.

**(5)** Qualification under examination requirements in states with different conditional credit rules are evaluated and passed or denied based on merit for each candidate. Uniform certified public accountant examination grades are required except for candidates from states where the uniform examination had not yet been adopted at the time the individual wrote the examination. Such grades will be evaluated based on merit, and in conjunction with levels and amounts of experience.

**(6)** Qualification must be properly documented by the candidate with adequate evidence provided to the board.

**History:** Cr. Register, February, 1980, No. 290, eff. 3-1-80; r. (2). Register, February, 1990, No. 410, eff. 3-1-90.

**Accy 8.04 Foreign candidates.** Candidates holding certifications from foreign countries shall establish their qualifications for a certificate by endorsement as set forth in ss. Accy 8.02 and 8.03.

**(1)** Education qualifications in foreign countries are not comparable to those in Wisconsin. **As** no foreign school is accredited by the north central association of schools and colleges or its regional equivalent, evidence of acceptance without deficiency into a graduate program in a school accredited by the north central association of schools and colleges or its regional equivalent will be accepted as evidence of equivalence for a bachelor's or higher degree. The education acquired must constitute the reasonable equivalence of a resident major in accounting as set forth in s. Accy 7.03.

**(2)** Examinations in foreign countries have not been established as being comparable to those in the United States. Candidates must establish at least minimum qualifications in United States practice related to areas of business law, federal income taxes, generally accepted auditing standards, and generally accepted accounting principles. The writing of uniform certified public accountant examinations in these areas would be adequate evidence, although other evidence may be accepted if validated.

**(3)** Experience must be at the level of a senior in public practice and include practice using United States related techniques as noted in sub. (2). Experience will be considered on its merit without restriction as to where it was acquired, so long as it is relevant to United States practice.

**History:** Cr. Register, February, 1980, No. 290, eff. 3-1-80; am. (intro.), Register, April, 1988, No. 388, eff. 5-1-88; am. (1), Register, August, 1992, No. 440, eff. 9-1-92.

## Chapter Accy 9

### PEER REVIEW

Accy 9.01	Definitions.
Accy 9.02	Requirement for firm license renewal.
Accy 9.03	Reports from board-approved review programs

Accy 9.04	List of board-approved review programs.
Accy 9.05	Board approval of reviewers.
Accy 9.06	Conducting a peer review.

#### Accy 9.01 Definitions. As used in this chapter:

(1) "Board-approved review program" means a program approved by the board to perform a peer review of a firm licensed by the board.

(2) "Engagement review" means to review a firm that performs only services under SSARS or services under the SSAE not included in a system review. An engagement review is usually performed at a location other than the reviewed firm's office. In an engagement review, the reviewers are required to review the financial statements and accompanying accountant's report for compliance with professional standards, and determine whether the firm's working paper documentation conforms to the requirements of the SSARS and SSAES that are applicable to these engagements in all material respects.

(3) "Peer review" means a process for a person who is licensed under this chapter to evaluate the professional competency of the members of a firm who are responsible for attest services provided by the firm or who sign or authorize another individual to sign accounting reports or financial statements on behalf of the firm.

(4) "Person" means any individual, partnership, firm, association, corporation, or other legal entity.

(5) "Report review" means to review the financial statements submitted by the reviewed firm and the accountant's report thereon, together with certain background information and representations provided by the reviewed firm, including the firm's prior peer review report, and if applicable, letter of comment and letter of response. A report review does not include a review of the working papers prepared on the engagements submitted for review, tests of the firm's administrative or personnel files, interviews of selected firm personnel, or other procedures performed in a system or engagement review. A report review does not provide the reviewer with a basis for expressing any form of assurance on the firm's system of quality control for its accounting practice.

(6) "SAS" means statements on auditing standards issued by the auditing standards board of the American Institute of Certified Public Accountants.

(7) "SSAE" means the statements on standards for attestation engagements issued by the auditing standards board, the accounting and review services committee, and the consulting services executive committee of the American Institute of Certified Public Accountants.

(8) "SSARS" means the statements on standards for accounting and review services issued by the accounting and review services committee of the American Institute of Certified Public Accountants.

(9) "System review" means to review a firm that performs engagements under the SAS or examinations of prospective financial statements under the SSAE. System reviews are usually performed at the reviewed firm's office. A system review is intended to provide the reviewer with a reasonable basis for expressing both of the following opinions during the period under review:

(a) The reviewed firm's system of quality control for its accounting and auditing practice has been designed in accordance with applicable quality control standards.

(b) The reviewed firm's quality control policies and procedures were being complied with to provide the firm with reasonable assurance of conforming to professional standards.

History: CR 02-119; cr. Register July 2003 No. 571, eff. 8-1-03.

#### Accy 9.02 Requirement for firm license renewal.

(1) After January 1, 2005, an application for renewal by a certified public accounting firm that provides or offers to provide attest services shall include a description of at least one peer review of the firm undergone through a peer review program approved by the board, or approved by a board that regulates certified public accountants in another state, within 3 years preceding the application for renewal. The description shall identify the board-approved peer review program, the outcome of the review and the year under review.

(2) A firm is exempt from the peer review requirements in this section if it does not offer or perform attest services as defined in s. 442.001 (1), Stats.

(3) A firm that has not offered or performed an attest service within the 3-year period preceding application for renewal shall notify the department at the time of renewal that it is exempt from the peer review requirements of this section because it has not offered or performed an attest service within the 3-year period. If a firm that has claimed the exemption in this section subsequently performs an attest service, it shall notify the board by letter that it is no longer exempt from the peer review requirement within 30 days after accepting the engagement for the attest service and that it agrees to undergo a peer review within 18 months after accepting the engagement.

**Note:** The following questions are intended to assist firms in determining whether a peer review is required for renewal. An affirmative response to any part of any question means that a peer review is required. Caution: This list is not exclusive. Refer to the standards if in doubt.

- Does your firm audit SEC clients, including employer-sponsored plans required to file a form 11-K with the SEC?
- Does your firm currently perform the following types of engagements?
  - Statements on Auditing Standards (SASs) – Audits?
  - Agreed-upon procedures?
  - Statements on Standards for Accounting and Review Services (SSARS)?
  - Reviews of financial statements?
  - Compilations of financial statements with disclosures?
  - Compilations of financial statements where "Selected Information-Substantially All Disclosures Required Are Not Included?"
  - Compilations of financial statements that omit substantially all disclosures?
  - Statements on Standards for Attestation Engagements (SSAE)?
  - Examinations of prospective financial statements under SAARS?
  - Compilations of prospective financial statements under SAARS?
  - Agreed-upon procedures of prospective financial statements?
  - Examinations of written assertions?
  - Reviews of written assertions?
  - Agreed-upon procedures of written assertions?
  - Engagements under Government Auditing Standards (Yellow Book)?

History: CR 02-119; cr. Register July 2003 No. 571, eff. 8-1-03.

#### Accy 9.03 Reports from board-approved review programs. Each board-approved peer review program shall

report the following to the board by December 1 of each even-numbered year:

(1) A list of the names, addresses and license numbers of all firms that have undergone peer review within the preceding 36 months.

(2) An evaluation of the effectiveness of the peer reviews.

**History:** CR 02-119; cr. Register July 2003 No. 571, eff. 8-1-03.

**Accy 9.04 List of board-approved review programs.** The board shall maintain a list of board-approved review programs which shall be available to the public.

**History:** CR 02-119; cr. Register July 2003 No. 571, eff. 8-1-03.

**Accy 9.05 Board approval of reviewers.** To be approved by the board as a board approved review program, a person seeking approval as a reviewer under a board-approved review program shall submit evidence as requested by the board showing that:

(1) The program complies with s. Accy 9.06.

(2) The person performing evaluations under the program is or consists of individuals licensed to practice as CPAs in this state who have undergone at least one peer review.

**History:** CR 02-119; cr. Register July 2003 No. 571, eff. 8-1-03.

**Accy 9.06 Conducting a peer review.** In conducting a peer review, a board-approved peer review program shall comply with requirements for performing system reviews, engagement reviews and report reviews established under the "Standards for Performing and Reporting on Peer Reviews" issued by the American Institute of Certified Public Accountants, effective January 1, 2001, specifically identified in paragraphs 25 - 71, and reproduced in Appendix A to this chapter.

**Note:** Paragraphs 25-71 of these standards are included as Appendix A to this chapter and are also available from the Internet at <http://www.aicpa.org/committees/div/practmon/stdstitledl.htm>

**History:** CR 02-119; cr. Register July 2003 No. 571, eff. 8-1-03.

## Chapter Accy 9

### APPENDIX A

Reprinted, with permission, from "Standards for Performing and Reporting on Peer Reviews" *AZCPA Professional Standards Volume 2 as of June 1, 2002*. The printed volume is available at:

American Institute of Certified Public Accountants  
1355 Pennsylvania Ave., NW  
Washington, DC 20004-1081

The standards are also available from the Internet at:

<http://www.aicpa.org/members/div/practmon/stdstitledl.htm>.

#### PERFORMING SYSTEM REVIEWS

##### Objectives

25. A system review is intended to provide the reviewer with a reasonable basis for expressing an opinion on whether, during the year under review —

- a. The reviewed firm's system of quality control for its accounting and auditing practice has been designed in accordance with quality control standards established by the AICPA. See SQCS No. 2. *System of Quality Control for a CPA Firm's Accounting and Auditing Practice* (AICPA, *Professional Standards*, vol. 2, QC sec. 20).
- b. The reviewed firm's quality control policies and procedures were being complied with to provide the ~~fa~~ with reasonable assurance of conforming with professional standards.

26. Firms have system reviews because of the public interest in the quality of the engagements covered under a system review: and the importance to the accounting profession of maintaining the quality of those services.

##### Peer Review Risk

27. Just as the performance of an audit includes audit risk, the performance of a system review includes peer review risk. Peer review risk is the risk that the review team—

- a. Fails to identify significant weaknesses in the reviewed firm's system of quality control for its accounting and auditing practice, its compliance with that system, or both.
- b. Issues an inappropriate opinion on the reviewed firm's system of quality control for its accounting and auditing practice, its compliance with that system, or both.
- c. Reaches an inappropriate decision about the findings to be included in, or excluded from, the letter of comments. or about whether to issue a letter of comments.

28. Peer review risk consists of the following two parts:

- a. The risk (consisting of *inherent risk* and *control risk*) that an engagement will fail to conform with professional standards, that the reviewed firm's system of quality control will not prevent such failure, or both.<sup>1, 2</sup>

<sup>1</sup> *Inherent risk* is the likelihood that an accounting or auditing engagement will fail to conform with professional standards, assuming the ~~firm~~ does not have a system of quality control.

<sup>2</sup> *Control risk* is the risk that a firm's system of quality control will not prevent the performance of an engagement that ~~does~~ not conform with professional standards. It consists of two parts: the firm's control environment and its quality control policies and procedures. The control environment represents the collective effort of various factors on establishing, enhancing, or mitigating the effectiveness of specific quality control policies and procedures. The control environment reflects the overall attitude, awareness, and actions of firm management concerning the ~~importance~~ importance of quality work and its emphasis in the ~~firm~~ firm.

- b. The risk (*detection risk*) that the review team will fail to detect the design or compliance deficiencies in the reviewed firm's system of quality control that either result in the firm having less than reasonable assurance of conforming with professional standards or constitute conditions whereby there is more than a remote possibility that the ~~firm~~ firm will not conform with professional standards on accounting and auditing engagements.

29. Inherent risk and control risk relate to the reviewed firm's accounting and auditing practice and its system of quality control and should be assessed by the review team in planning the review. Based on that assessment, the review team determines the offices and engagements to be selected for review to reduce peer review risk to an acceptable low level. The ~~lower~~ lower the inherent and control risk, the higher the detection risk that can be tolerated and vice versa. The assessment of these ~~risks~~ risks is qualitative and not quantitative.

##### Basic Requirements

30. A system review should include the following procedures:

partners and significant industry areas that existed before the divestiture. If the divested portion of the practice is unavailable for review and represents less than ten percent of the reviewed firm's accounting and auditing hours, then the review team does not have to modify the report for a scope limitation. In all other circumstances, the review team should carefully assess the effects the divestiture has on the scope of the peer review. A review team captain who is considering whether a peer review report should be modified for a scope limitation due to a divestiture should consult with the state CPA society administering the review.

37. A reviewed **firm** may have legitimate reasons for not permitting the working papers for certain engagements to be reviewed. For example, the financial statements of an engagement selected for review may be the subject of litigation or investigation by a government authority, or the **firm** may have been advised by a client that it will not permit the working papers for its engagement to be reviewed. In such circumstances, the review team should satisfy itself as to the reasonableness of the explanation. Also, in order to reach a conclusion that the excluded engagements do not have to be reported as a scope limitation, the review team needs to consider the number, **size**, and relative complexity of the excluded engagements, and should review other engagement<sup>5</sup> in a similar area of practice as well as other work of the supervisory personnel who participated in the excluded engagements.

38. In reviewing a practice office, the accounting and auditing practice to be reviewed includes reports issued for or to another office of the reviewed firm, a correspondent firm, or an affiliated firm. For those situations in which engagements selected in the practice office being reviewed include use of the work of another office, correspondent, or affiliate, the review team may limit its review to portions of the engagements performed by the practice office being reviewed, but should evaluate the appropriateness of the instructions issued by the reviewed office and the adequacy of the procedures followed to conform with professional standards.

39. Reviewers should ask the state CPA society administering the review about any requirements of relevant state boards of accountancy that need to be met for the review to be accepted by such state board(s) as the equivalent of one performed under the state board's own positive enforcement program.

### Understanding Accounting and Auditing Practice and System of Quality Control

40. The review team should obtain a sufficient understanding of the nature and extent of the reviewed firm's accounting and auditing practice to plan the review. This understanding should include knowledge about the reviewed firm's organization and philosophy, as well as the composition of its accounting and auditing practice. This knowledge is ordinarily obtained through such procedures as inquiries of appropriate management personnel and requests of management to provide certain background information, some of which will have been provided to the review team before the review was accepted.

41. SQCS No. 2 requires every CPA firm, regardless of its size, to have a system of quality control for its accounting and auditing practice. It states that the quality control policies and procedures applicable to a professional service provided by the firm should encompass the following elements: independence, integrity, and objectivity; personnel management; acceptance and continuance of clients and engagements; engagement performance; and monitoring. The review team should obtain a sufficient understanding of the reviewed firm's system of quality control with respect to each element to plan the review. The understanding should include knowledge about the design of the reviewed firm's quality control policies and procedures in accordance with quality control standards established by the AICPA. This knowledge is ordinarily obtained through such procedures as inquiries of appropriate management and supervisory personnel, as well as reviewing the firm's responses to a questionnaire developed by the AICPA Peer Review Board.

### Assessing Peer Review Risk

42. In planning the review, the review team should use the understanding it has obtained of the reviewed firm's accounting and auditing practice and its system of quality control to assess the peer review risk associated with those areas. The higher the assessed levels of peer review risk, the greater the number of offices or engagements that need to be reviewed. The assessed level of peer review risk may be affected by circumstances arising within the firm (for example, individual partners have engagements in numerous specialized industries or the **firm** has a few engagements constituting a significant portion of the firm's accounting and auditing practice) or outside the firm (for example, new professional standards being applied for the first time or adverse economic developments in an industry).

43. When assessing risk, the review team should evaluate the reviewed firm's quality control policies and procedures over its accounting and auditing practice in relation to the requirements contained in SQCS No. 2. This evaluation provides a basis for the review team to determine whether the reviewed **firm** has adopted appropriately comprehensive and suitably designed policies and procedures that are relevant to the size and nature of its practice. When making the evaluation, the review team should discuss with the firm how it considered the guidance provided in the AICPA's *Guide for Establishing and Maintaining a System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.



49. The process of engagement selection, like office selection, is not subject to definitive criteria. Nevertheless, if the team captain finds that meeting all of the preceding criteria results in the selection of an inappropriate scope of the firm's accounting and auditing practice, the team captain may want to consult with the state CPA society administering the review about the selection of engagements for review. In such circumstances, the team captain should carefully consider whether—

- a. Adequate consideration has been given to the *key audit area* approach to engagement review. (This is discussed more fully in the AICPA peer review programs and checklists.)
- b. Too much weight has been given to the desirability of reviewing work performed by all or most supervisory personnel.
- c. Adequate consideration has been given to engagement selection based on peer review risk on a firm-wide basis. For example, if two offices are selected for review and each has a large client in the same specialized industry, peer review risk should be considered in determining whether more than one of these engagements should be selected for review.

### Extent of the Review of Engagements

50. The review of engagements should include the review of financial statements, accountants' reports, working paper files, and correspondence, as well as discussions with professional personnel of the reviewed firm. The review of audit engagements should ordinarily include all key areas of the engagements selected to determine whether well-planned, appropriately executed, and suitably documented procedures were performed in accordance with professional standards and the reviewed firm's quality control policies and procedures.

51. For each engagement reviewed, the review team should document whether anything came to its attention that caused it to believe the following.

- a. The financial statements were not presented in all material respects in accordance with generally accepted accounting principles (GAAP) or, if applicable, an other comprehensive basis of accounting (OCBOA).
- b. The firm did not have a reasonable basis under applicable professional standards for the report issued.
- c. The documentation on the engagement did not support the report issued.
- d. The firm did not comply with its quality control policies and procedures in all material respects.

52. If the review team answers *yes* with respect to any of the preceding items, the team captain should promptly inform an appropriate member of the reviewed firm (generally on a "Matter for Further Consideration" form). The reviewed firm should investigate the matter questioned by the review team and determine what action, if any, should be taken. If the reviewed firm concludes that its report on previously issued financial statements is inappropriate, as addressed in the section of SAS No. 1 entitled "Subsequent Discovery of Facts Existing at the Date of the Auditor's Report" (AICPA, *Professional Standards*, vol. 1, AU sec. 561), or the firm's work does not support the report issued, as addressed in SAS No. 46, *Consideration of Omitted Procedures After the Report Date* (AICPA, *Professional Standards*, vol. 1, AU sec. 390), the reviewed firm should take timely action, as appropriate, to correct such engagements. The reviewed firm should advise the team captain of the results of its investigation and document the actions taken or planned or its reasons for concluding that no action is required (generally on the "Matter for Further Consideration" form prepared by the reviewer).

53. If the reviewed firm believes that it can continue to support its previously issued report and the review team continues to believe that there may be a significant failure to reach appropriate conclusions in the application of professional standards, the review team should pursue any remaining questions with the reviewed firm and, if necessary, with the state CPA society administering the review. The review team should also consider whether it is necessary to expand the scope of the review by selecting additional engagements to determine the extent and cause of significant departures from professional standards.

54. In evaluating the reviewed firm's response, the review team should recognize that it has not audited the financial statements in question in accordance with generally accepted auditing standards (GAAS) and that it has not had the benefit of access to client records, discussions with the client, or specific knowledge of the client's business. Nevertheless, a disagreement on the resolution of the matter may persist in some circumstances and the reviewed firm should be aware that the state CPA society administering the review may refer unresolved matters to the AICPA Peer Review Board for a final determination.

### Exit Conference

55. Prior to issuing its report and, if applicable, letter of comments, the review team should communicate its conclusions to senior members of the reviewed firm at an exit conference, which may also be attended by representatives of state CPA society administering entities, the AICPA Peer Review Board, or other authorized organizations with oversight responsibilities. The reviewed firm is entitled to be informed at the exit conference about any matters that may affect the peer review report and about the findings and recommendations that will be included in the letter of comments. Accordingly, except in rare circumstances that should be explained to the reviewed firm, the exit conference should be postponed if there is any

61. A firm that has an engagement review should respond promptly to questions raised in the review, whether those questions are raised orally or in writing on a "Matter for Further Consideration" form. The reviewer will contact the firm, before issuing the peer review report, to resolve questions raised in the review.

62. The reviewer performing an engagement review should document the work performed using the programs and checklists issued by the AICPA Peer Review Board for that purpose. Failure to complete all relevant programs and checklists in a professional manner may create the presumption that the review has not been performed in conformity with these standards. Such a review cannot be accepted as meeting the requirements of the peer review program. Engagement reviews are subject to oversight by the AICPA and the administering entity.

63. Compliance with the positive enforcement program of a state board of accountancy does not constitute compliance with the AICPA practice-monitoring requirement for engagement reviews.

## PERFORMING REPORT REVIEWS

### Objectives

64. The objective of a report review is to enable the reviewed firm to improve the overall quality of its compilation engagements that omit substantially all disclosures. To accomplish this objective, the reviewer provides comments and recommendations based on whether the submitted financial statements and related accountant's reports appear to conform with the requirements of professional standards in all material respects. Firms required to have a report review may elect to have a system or engagement review.

### Basic Requirements

65. The criteria for selecting the peer review year-end and the period to be covered by a report review are the same as those for a system review (see paragraphs 33 and 34) and an engagement review. The reviewed firm shall provide summarized information showing the number of compilation engagements under SSARS, where the firm has compiled financial statements that omit substantially all disclosures, classified into major industry categories. That information should be provided for each partner of the firm who is responsible for the issuance of reports on such engagements. On the basis of that information, the reviewer or the state CPA society administering the review ordinarily should select the types of engagements to be submitted for review, in accordance with the following guidelines:

- a. One engagement should be selected from each partner of the firm responsible for the issuance of compiled financial statements that omit substantially all disclosures.
- b. Ordinarily, at least two engagements should be selected for review.

66. For each engagement selected for review, the reviewed firm shall submit the appropriate financial statements and the accountant's report, masking client identity if it desires, along with specified background information and representations about each engagement.

67. A report review consists of reading the financial statements submitted by the reviewed firm and the accountant's report thereon, together with certain background information and representations provided by the reviewed firm, including the firm's prior peer review report, and if applicable, letter of comment and letter of response.

68. A report review does not include a review of the working papers prepared on the engagements submitted for review, tests of the firm's administrative or personnel files, interviews of selected firm personnel, or other procedures performed in a system or engagement review. Accordingly, a report review does not provide the reviewer with a basis for expressing any form of assurance on the firm's system of quality control for its accounting practice.

69. A firm that has a report review should respond promptly to questions raised in the review, whether those questions are raised orally or in writing. The reviewer will contact the firm, before issuing the peer review report, to resolve questions raised in the review.

70. The reviewer performing report review should document the work performed using the programs and checklists issued by the AICPA Peer Review Board for that purpose. Failure to complete all relevant programs and checklists in a professional manner may create the presumption that the review has not been performed in conformity with these standards. Such a review cannot be accepted as meeting the requirements of the peer review program. Report reviews are subject to oversight by the AICPA and the administering entity.

71. Compliance with the positive enforcement program of a state board of accountancy does not constitute compliance with the AICPA practice-monitoring requirement for report reviews.

## Chapter RL 1

## PROCEDURES TO REVIEW DENIAL OF AN APPLICATION

RL 1.01	Authority and scope.
RL 1.03	Definitions.
RL 1.04	Examination failure: retake and hearing.
RL 1.05	Notice of intent to deny and notice of denial.
RL 1.06	Parties to a denial review proceeding.
RL 1.07	Request for hearing.

RL 1.08	Procedure.
RL 1.09	Conduct of hearing.
RL 1.10	Service.
RL 1.11	Failure to appear.
RL 1.12	Withdrawal of request.
RL 1.13	Transcription fees.

**RL 1.01 Authority and scope.** Rules in this chapter are adopted under authority in s. 440.03 (1), Stats., for the purpose of governing review of a decision to deny an application. Rules in this chapter do not apply to denial of an application for renewal of a credential. Rules in this chapter shall apply to applications received on or after July 1, 1996.

**Note:** Procedures used for denial of an application for renewal of a credential are found in Ch. RL 2, Wis. Admin. Code and s. 227.01 (3) (b), Stats.

**History:** Cr. Register, October, 1985, No. 358, eff. 11-1-85; **am.**, Register, July, 1996, No. 487, eff. 8-1-96.

**RL 1.02 Scope.** **History:** Cr. Register, October, 1985, No. 358, eff. 11-1-85; **r.**, Register, July, 1996, No. 487, eff. 8-1-96.

**RL 1.03 Definitions.** In this chapter:

(1) "Applicant" means any person who applies for a credential from the applicable credentialing authority. "Person" in this subsection includes a business entity.

(2) "Credential" means a license, permit, or certificate of certification or registration that is issued under chs. 440 to 480, Stats.

(3) "Credentialing authority" means the department or an attached examining board, affiliated credentialing board or board having authority to issue or deny a credential.

(4) "Denial review proceeding" means a class 1 proceeding as defined in s. 227.01 (3) (a), Stats., in which a credentialing authority reviews a decision to deny a completed application for a credential.

(5) "Department" means the department of regulation and licensing.

(6) "Division" means the division of enforcement in the department.

**History:** Cr. Register, October, 1985, No. 358, eff. 11-1-85; correction in (4) made under s. 13.93 (2m) (b) 7., Stats., Register, May, 1988, No. 389; **am.** (1), (4), **r.** (2), **renum.** (3) to be (5), **cr.** (2), (3), (6), Register, July, 1996, No. 487, eff. 8-1-96.

**RL 1.04 Examination failure: retake and hearing.**

(1) An applicant may request a hearing to challenge the validity, scoring or administration of an examination if the applicant has exhausted other available administrative remedies, including, but not limited to, internal examination review and regrading, and if either:

(a) The applicant is no longer eligible to retake a qualifying examination.

(b) Reexamination is not available within 6 months from the date of the applicant's last examination.

(2) A failing score on an examination does not give rise to the right to a hearing if the applicant is eligible to retake the examination and reexamination is available within 6 months from the date of the applicant's last examination.

**Note:** An applicant is not eligible for a license until his or her application is complete. An application is not complete until an applicant has submitted proof of having successfully passed any required qualifying examination. If an applicant fails the qualifying examination, but has the right to retake it within 6 months, the applicant is not entitled to a hearing under this chapter.

**History:** Cr., Register, July, 1996, No. 487, eff. 8-1-96.

**RL 1.05 Request for hearing.** **History:** Cr. Register, October, 1985, No. 358, eff. 11-1-85; corrections in (2) (a) and (b) made under s. 13.93 (2m) (h) 7., Stats., Register, May, 1988, No. 389; **r.**, Register, July, 1996, No. 487, eff. 8-1-96.

**RL 1.05 Notice of intent to deny and notice of denial.**

(1) **NOTICE OF INTENT TO DENY.** (a) A notice of intent to deny may

be issued upon an initial determination that the applicant does not meet the eligibility requirements for a credential. A notice of intent to deny shall contain a short statement in plain language of the basis for the anticipated denial, specify the statute, rule or other standard upon which the denial will be based and state that the application shall be denied unless, within 45 calendar days from the date of the mailing of the notice, the credentialing authority receives additional information which shows that the applicant meets the requirements for a credential. The notice shall be substantially in the form shown in Appendix I.

(b) If the credentialing authority does not receive additional information within the 45 day period, the notice of intent to deny shall operate as a notice of denial and the 45 day period for requesting a hearing described in s. RL 1.07 shall commence on the date of mailing of the notice of intent to deny.

(c) If the credentialing authority receives additional information within the 45 day period which fails to show that the applicant meets the requirements for a credential, a notice of denial shall be issued under sub. (2).

(2) **NOTICE OF DENIAL.** If the credentialing authority determines that an applicant does not meet the requirements for a credential, the credentialing authority shall issue a notice of denial in the form shown in Appendix II. The notice shall contain a short statement in plain language of the basis for denial, specify the statute, rule or other standard upon which the denial is based, and be substantially in the form shown in Appendix II.

**History:** Cr., Register, July, 1996, eff. 8-1-96.

**RL 1.06 Parties to a denial review proceeding.** Parties to a denial review proceeding are the applicant, the credentialing authority and any person admitted to appear under s. 227.44 (2m), Stats.

**History:** Cr. Register, October, 1985, No. 358, eff. 11-1-85; **renum.** from RL 1.04 and **am.**, Register, July, 1996, No. 487, eff. 8-1-96.

**RL 1.07 Request for hearing.** An applicant may request a hearing within 45 calendar days after the mailing of a notice of denial by the credentialing authority. The request shall be in writing and set forth all of the following:

(1) The applicant's name and address.

(2) The type of credential for which the applicant has applied.

(3) A specific description of the mistake in fact or law which constitutes reasonable grounds for reversing the decision to deny the application for a credential. If the applicant asserts that a mistake in fact was made, the request shall include a concise statement of the essential facts which the applicant intends to prove at the hearing. If the applicant asserts a mistake in law was made, the request shall include a statement of the law upon which the applicant relies.

**History:** Cr., Register, July, 1996, No. 487, eff. 8-1-96.

**RL 1.08 Procedure.** The procedures for a denial review proceeding are:

(1) **REVIEW OF REQUEST FOR HEARING.** Within 45 calendar days of receipt of a request for hearing, the credentialing authority or its designee shall grant or deny the request for a hearing on a denial of a credential. A request shall be granted if requirements in s. RL 1.07 are met, and the credentialing authority or its designee shall

notify the applicant of the time, place and nature of the hearing. If the requirements in s. RL 1.07 are not met, a hearing shall be denied, and the credentialing authority or its designee shall inform the applicant in writing of the reason for denial. For purposes of a petition for review under s. 227.52, Stats., a request is denied if a response to a request for hearing is not issued within 45 calendar days of its receipt by the credentialing authority.

**(2) DESIGNATION OF PRESIDING OFFICER.** An administrative law judge employed by the department shall preside over denial hearings, unless the credentialing authority designates otherwise. The administrative law judge shall be an attorney in the department designated by the department general counsel, an employee borrowed from another agency pursuant to s. 20.901, Stats., or a person employed as a special project or limited term employee by the department, except that the administrative law judge may not be an employee in the division.

**(3) DISCOVERY.** Unless the parties otherwise agree, no discovery is permitted, except for the taking and preservation of evidence as provided in ch. 804, Stats., with respect to witnesses described in s. 227.45 (7) (a) to (d), Stats. An applicant may inspect records under s. 19.35, Stats., the public records law.

**(4) BURDEN OF PROOF.** The applicant has the burden of proof to show by evidence satisfactory to the credentialing authority that the applicant meets the eligibility requirements set by law for the credential.

History: Cr., Register, July, 1996, No. 487, eff. 8-1-96.

**RL 1.09 Conduct of hearing. (1) RECORD.** A stenographic, electronic or other record shall be made of all hearings in which the testimony of witnesses is offered as evidence, and of other oral proceedings when requested by a party.

**(2) ADJOURNMENTS.** The presiding officer may, for good cause, grant continuances, adjournments and extensions of time.

**(3) SUBPOENAS.** (a) Subpoenas for the attendance of any witness at a hearing in the proceeding may be issued in accordance with s. 227.45 (6m), Stats.

(b) A presiding officer may issue protective orders according to the provisions of s. 805.07, Stats.

**(4) MOTIONS.** All motions, except those made at hearing, shall be in writing, filed with the presiding officer and a copy served upon the opposing party not later than 5 days before the time specified for hearing the motion.

**(5) EVIDENCE.** The credentialing authority and the applicant shall have the right to appear in person or by counsel, to call, examine and cross-examine witnesses and to introduce evidence into the record. If the applicant submits evidence of eligibility for a credential which was not submitted to the credentialing authority prior to denial of the application, the presiding officer may request the credentialing authority to reconsider the application and the evidence of eligibility not previously considered.

**(6) BRIEFS.** The presiding officer may require the filing of briefs.

**(7) LOCATION OF HEARING.** All hearings shall be held at the offices of the department in Madison unless the presiding officer determines that the health or safety of a witness or of a party or an emergency requires that a hearing be held elsewhere.

History: Cr., Register, July, 1996, No. 487, eff. 8-1-96.

**RL 1.10 Service.** Service of any document on an applicant may be made by mail addressed to the applicant at the last address filed in writing by the applicant with the credentialing authority. Service by mail is complete on the date of mailing.

History: Cr. Register, October, 1985, No. 358, eff. 11-1-85; renum. from RL 1.06 and am., Register, July, 1996, No. 487, eff. 8-1-96.

**RL 1.11 Failure to appear.** In the event that neither the applicant nor his or her representative appears at the time and place designated for the hearing, the credentialing authority may take action based upon the record as submitted. By failing to appear, an applicant waives any right to appeal before the credentialing authority which denied the license.

History: Cr. Register, October, 1985, No. 358, eff. 11-1-85; renum. from RL 1.07 and am., Register, July, 1996, No. 487, eff. 8-1-96.

**RL 1.12 Withdrawal of request.** A request for hearing may be withdrawn at any time. Upon receipt of a request for withdrawal, the credentialing authority shall issue an order affirming the withdrawal of a request for hearing on the denial.

History: Cr., Register, July, 1996, No. 487, eff. 8-1-96.

**RL 1.13 Transcription fees. (1)** The fee charged for a transcript of a proceeding under this chapter shall be computed by the person or reporting service preparing the transcript on the following basis:

(a) If the transcript is prepared by a reporting service, the fee charged for an original transcription and for copies shall be the amount identified in the state operational purchasing bulletin which identifies the reporting service and its fees.

(b) If a transcript is prepared by the department, the department shall charge a transcription fee of \$1.75 per page and a copying charge of \$.25 per page. If 2 or more persons request a transcript, the department shall charge each requester a copying fee of \$.25 per page, but may divide the transcript fee equitably among the requesters. If the department has prepared a written transcript for its own use prior to the time a request is made, the department shall assume the transcription fee, but shall charge a copying fee of \$.25 per page.

**(2)** A person who is without means and who requires a transcript for appeal or other reasonable purposes shall be furnished with a transcript without charge upon the filing of a petition of indigency signed under oath. For purposes of this section, a determination of indigency shall be based on the standards used for making a determination of indigency under s. 977.07, Stats.

History: Cr., Register, July, 1996, No. 487, eff. 8-1-96.

**Chapter RL 1**  
**APPENDIX I**  
**NOTICE OF INTENT TO DENY**

---

[DATE]  
[NAME and  
ADDRESS OF APPLICANT]

Re:        Application for [TYPE OF CREDENTIAL]; Notice of Intent to Deny

Dear [APPLICANT]:

PLEASE TAKE NOTICE that the state of Wisconsin [CREDENTIALING AUTHORITY] has reviewed your application for a [TYPE OF CREDENTIAL]. On the basis of the application submitted, the [CREDENTIALING AUTHORITY] intends to deny your application for reasons identified below unless, within 45 calendar days from the date of the mailing of this notice, the [CREDENTIALING AUTHORITY] receives additional information which shows that you meet the requirements for a credential.

[STATEMENT OF REASONS FOR DENIAL]

The legal basis for this decision is:

[SPECIFY THE STATUTE, RULE OR OTHER STANDARD UPON  
WHICH THE DENIAL WILL BE BASED]

If the [CREDENTIALING AUTHORITY] does not receive additional information within the 45 day period, this notice of intent to deny shall operate as a notice of denial and the 45 day period you have for requesting a hearing shall commence on the date of mailing of this notice of intent to deny.

---

[Designated Representative of Credentialing Authority]

PLEASE NOTE that you have a right to a hearing on the denial of your application if you file a request for hearing in accordance with the provisions of Ch. RL 1 of the Wisconsin Administrative Code. If you do not submit additional information in support of your application, you may request a hearing within 45 calendar days after the mailing of this notice. Your request must be submitted in writing to the [CREDENTIALING AUTHORITY] at:

Department of Regulation and Licensing  
1400 East Washington Avenue  
P.O. Box 8935  
Madison, WI 53708-8935

The request must contain your name and address, the type of credential for which you have applied, a specific description of the mistake in fact or law that you assert was made in the denial of your credential, and a concise statement of the essential facts which you intend to prove at the hearing. You will be notified in writing of the [CREDENTIALING AUTHORITY'S] decision. Under s. RL 1.08 of the Wisconsin Administrative Code, a request for a hearing is denied if a response to a request for a hearing is not issued with 45 days of its receipt by the [CREDENTIALING AUTHORITY]. Time periods for a petition for review begin to run 45 days after the [CREDENTIALING AUTHORITY] has received a request for a hearing and has not responded.

**Chapter RL 1**  
**APPENDIX II**  
**NOTICE OF DENIAL**

---

[DATE]  
[NAME and  
ADDRESS OF APPLICANT]

Re: Application for [TYPE OF CREDENTIAL]; Notice of Denial

Dear [APPLICANT]:

PLEASE TAKE NOTICE that the state of Wisconsin [CREDENTIALING AUTHORITY] has reviewed your application for a [TYPE OF CREDENTIAL] and denies the application for the following reasons:

[STATEMENT OF REASONS FOR DENIAL]

The legal basis for this decision is:

[SPECIFY THE STATUTE, RULE OR OTHER STANDARD UPON  
WHICH THE DENIAL WILL BE BASED]

---

[Designated Representative of Credentialing Authority]

PLEASE NOTE that you have a right to a hearing on the denial of your application if you file a request for hearing in accordance with the provisions of Ch. RL 1 of the Wisconsin Administrative Code. You may request a hearing within 45 calendar days after the mailing of this notice of denial. Your request must be submitted in writing to the [CREDENTIALING AUTHORITY] at:

Department of Regulation and Licensing  
1400 East Washington Avenue  
P.O. Box 8935  
Madison, WI 53708-8935

The request must contain your name and address, the type of credential for which you have applied, a specific description of the mistake in fact or law that you assert was made in the denial of your credential, and a concise statement of the essential facts which you intend to prove at the hearing. You will be notified in writing of the [CREDENTIALING AUTHORITY'S] decision. Under s. RL 1.08 of the Wisconsin Administrative Code, a request for a hearing is denied if a response to a request for a hearing is not issued within 45 days of its receipt by the [CREDENTIALING AUTHORITY]. Time periods for a petition for review begin to run 45 days after the [CREDENTIALING AUTHORITY] has received a request for a hearing and has not responded.

## Chapter RL 2

## PROCEDURES FOR PLEADING AND HEARINGS

RL 2.01	Authority.
RL 2.02	Scope; kinds of proceedings.
RL 2.03	Definitions.
RL 2.035	Receiving informal complaints.
RL 2.036	Procedure for settlement conferences.
RL 2.037	Parties to a disciplinary proceeding.
RL 2.04	Commencement of disciplinary proceedings.
RL 2.05	Pleadings to be captioned.
RL 2.06	Complaint.
RL 2.07	Notice of hearing.
RL 2.08	Service and filing of complaint, notice of hearing and other papers.

RL 2.09	Answer.
RL 2.10	Administrative law judge.
RL 2.11	Prehearing conference.
RL 2.12	Settlements.
RL 2.13	Discovery.
RL 2.14	Default.
RL 2.15	Conduct of hearing.
RL 2.16	Witness fees and costs.
RL 2.17	Transcription fees.
RL 2.18	Assessment of costs.

**RL 2.01 Authority.** The rules inch. RL 2 are adopted pursuant to authority in s. 440.03 (1), Stats., and procedures in ch. 227, Stats.

**History:** Cr. Register, October, 1978, No. 274, eff. 11-1-78; am. Register, May, 1982, No. 317, eff. 6-1-82.

**RL 2.02 Scope; kinds of proceedings.** The rules in this chapter govern procedures in class 2 proceedings, as defined in s. 227.01 (3) (b), Stats., against licensees before the department and all disciplinary authorities attached to the department, except that s. RL 2.17 applies also to class 1 proceedings, as defined in s. 227.01 (3) (a), Stats.

**History:** Cr. Register, October, 1978, No. 274, eff. 11-1-78; am. Register, May, 1982, No. 317, eff. 6-1-82; corrections made under s. 13.93(2m) (b) 7., Stats., Register, May, 1988, No. 389; am. Register, June, 1992, No. 438, eff. 7-1-92.

**RL 2.03 Definitions.** In this chapter:

- (1) "Complainant" means the person who signs a complaint.
- (2) "Complaint" means a document which meets the requirements of ss. RL 2.05 and 2.06.
- (3) "Department" means the department of regulation and licensing.
- (4) "Disciplinary authority" means the department or the attached examining board or board having authority to revoke the license of the holder whose conduct is under investigation.
- (5) "Disciplinary proceeding" means a proceeding against one or more licensees in which a disciplinary authority may determine to revoke or suspend a license, to reprimand a licensee, to limit a license, to impose a forfeiture, or to refuse to renew a license because of a violation of law.
- (6) "Division" means the division of enforcement in the department.
- (7) "Informal complaint" means any written information submitted to the division or any disciplinary authority by any person which requests that a disciplinary proceeding be commenced against a licensee or which alleges facts, which if true, warrant discipline.
- (8) "Licensee" means a person, partnership, corporation or association holding any license, permit, certificate or registration granted by a disciplinary authority or having any right to renew a license, permit, certificate or registration granted by a disciplinary authority.
- (9) "Respondent" means the person against whom a disciplinary proceeding has been commenced and who is named as respondent in a complaint.
- (10) "Settlement conference" means a proceeding before a disciplinary authority or its designee conducted according to s. RL 2.036, in which a conference with one or more licensee is held to

attempt to reach a fair disposition of an informal complaint prior to the commencement of a disciplinary proceeding.

**History:** Cr. Register, October, 1978, No. 274, eff. 11-1-78; am. (1) and (6), renum. (7) and (8) to be (8) and (9), cr. (7), Register, May, 1982, No. 317, eff. 6-1-82; r. (1), renum. (2) to (4) to be (1) to (3), cr. (4) and (10), am. (5), (7) and (8), Register, June, 1992, No. 438, eff. 7-1-92.

**RL 2.035 Receiving informal complaints.** All informal complaints received shall be referred to the division for filing, screening and, if necessary, investigation. Screening shall be done by the disciplinary authority, or, if the disciplinary authority directs, by a disciplinary authority member or the division. In this section, screening is a preliminary review of complaints to determine whether an investigation is necessary. Considerations in screening include, but are not limited to:

- (1) Whether the person complained against is licensed;
- (2) Whether the violation alleged is a fee dispute;
- (3) Whether the matter alleged, if taken as a whole, is trivial; and
- (4) Whether the matter alleged is a violation of any statute, rule or standard of practice.

**History:** Cr. Register, May, 1982, No. 317, eff. 6-1-82; am. (intro.) and (3), Register, June, 1992, No. 438, eff. 7-1-92.

**RL 2.036 Procedure for settlement conferences.** At the discretion of the disciplinary authority, a settlement conference may be held prior to the commencement of a disciplinary proceeding, pursuant to the following procedures:

**(1) SELECTION OF INFORMAL COMPLAINTS.** The disciplinary authority or its designee may determine that a settlement conference is appropriate during an investigation of an informal complaint if the information gathered during the investigation presents reasonable grounds to believe that a violation of the laws enforced by the disciplinary authority has occurred. Considerations in making the determination may include, but are not limited to:

- (a) Whether the issues arising out of the investigation of the informal complaint are clear, discrete and sufficiently limited to allow for resolution in the informal setting of a settlement conference; and
- (b) Whether the facts of the informal complaint are undisputed or clearly ascertainable from the documents received during investigation by the division.

**(2) PROCEDURES.** When the disciplinary authority or its designee has selected an informal complaint for a possible settlement conference, the licensee shall be contacted by the division to determine whether the licensee desires to participate in a settlement conference. A notice of settlement conference and a description of settlement conference procedures, prepared on forms prescribed by the department, shall be sent to all participants in ad-

vance of any settlement conference. A settlement conference shall not be held without the consent of the licensee. No agreement reached between the licensee and the disciplinary authority or its designee at a settlement conference which imposes discipline upon the licensee shall be binding until the agreement is reduced to writing, signed by the licensee, and accepted by the disciplinary authority.

(3) **ORAL STATEMENTS AT SETTLEMENT CONFERENCE.** Oral statements made during a settlement conference shall not be introduced into or made part of the record in a disciplinary proceeding.

**History:** Cr. Register, June, 1992, No. 438, eff. 7-1-92.

**RL 2.037 Parties to a disciplinary proceeding.** Parties to a disciplinary proceeding are the respondent, the division and the disciplinary authority before which the disciplinary proceeding is heard.

**History:** Cr. Register, May, 1982, No. 317, eff. 6-1-82; renum. from RL 2.036 and am. Register, June, 1992, No. 438, eff. 7-1-92.

**RL 2.04 Commencement of disciplinary proceedings.** Disciplinary proceedings are commenced when a notice of hearing is filed in the disciplinary authority office or with a designated administrative law judge.

**History:** Cr. Register, February, 1979, No. 278, eff. 3-1-79; am. Register, June, 1992, No. 438, eff. 7-1-92.

**RL 2.05 Pleadings to be captioned.** All pleadings, notices, orders, and other papers filed in disciplinary proceedings shall be captioned: "BEFORE THE \_\_\_\_\_" and shall be entitled: "IN THE MATTER OF DISCIPLINARY PROCEEDINGS AGAINST \_\_\_\_\_, RESPONDENT."

**History:** Cr. Register, October, 1978, No. 274, eff. 11-1-78.

**RL 2.06 Complaint.** A complaint may be made on information and belief and shall contain:

(1) The name and address of the licensee complained against and the name and address of the complainant;

(2) A short statement in plain language of the cause for disciplinary action identifying with reasonable particularity the transaction, occurrence or event out of which the cause arises and specifying the statute, rule or other standard alleged to have been violated;

(3) A request in essentially the following form: "Wherefore, the complainant demands that the disciplinary authority hear evidence relevant to matters alleged in this complaint, determine and impose the discipline warranted, and assess the costs of the proceeding against the respondent;" and,

(4) The signature of the complainant.

**History:** Cr. Register, October, 1978, No. 274, eff. 11-1-78; am. (intro.), (3) and (4). Register, June, 1992, No. 438, eff. 7-1-92.

**RL 2.07 Notice of hearing.** (1) A notice of hearing shall be sent to the respondent at least 10 days prior to the hearing, unless for good cause such notice is impossible or impractical, in which case shorter notice may be given, but in no case may the notice be provided less than 48 hours in advance of the hearing.

(2) A notice of hearing to the respondent shall be substantially in the form shown in Appendix I and signed by a disciplinary authority member or an attorney in the division.

**History:** Cr. Register, October, 1978, No. 274, eff. 11-1-78; am. (2) (intro.), Register, February, 1979, No. 278, eff. 3-1-79; r. and recr. Register, June, 1992, No. 438, eff. 7-1-92.

**RL 2.08 Service and filing of complaint, notice of hearing and other papers.** (1) The complaint, notice of hearing, all orders and other papers required to be served on a respondent may be served by mailing a copy of the paper to the respondent at the last known address of the respondent or by any procedure described in s. SO 1.14(2), Stats. Service by mail is complete upon mailing.

(2) Any paper required to be filed with a disciplinary authority may be mailed to the disciplinary authority office or, if an administrative law judge has been designated to preside in the matter, to the administrative law judge and shall be deemed filed on receipt at the disciplinary authority office or by the administrative law judge. An answer under s. RL 2.09, and motions under s. RL 2.15 may be filed and served by facsimile transmission. A document filed by facsimile transmission under this section shall also be mailed to the disciplinary authority. An answer or motion filed by facsimile transmission shall be deemed filed on the first business day after receipt by the disciplinary authority.

**History:** Cr. Register, October, 1978, No. 274, eff. 11-1-78; am. (2), Register, June, 1992, No. 438, eff. 7-1-92.

**RL 2.09 Answer.** (1) An answer to a complaint shall state in short and plain terms the defenses to each cause asserted and shall admit or deny the allegations upon which the complainant relies. If the respondent is without knowledge or information sufficient to form a belief as to the truth of the allegation, the respondent shall so state and this has the effect of a denial. Denials shall fairly meet the substance of the allegations denied. The respondent shall make denials as specific denials of designated allegations or paragraphs but if the respondent intends in good faith to deny only a part or a qualification of an allegation, the respondent shall specify so much of it as true and material and shall deny only the remainder.

(2) The respondent shall set forth affirmatively in the answer any matter constituting an affirmative defense.

(3) Allegations in a complaint are admitted when not denied in the answer.

(4) An answer to a complaint shall be filed within 20 days from the date of service of the complaint.

**History:** Cr. Register, October, 1978, No. 274, eff. 11-1-78; am. (4), Register, February, 1979, No. 278, eff. 3-1-79; am. (1), (3) and (4), Register, June, 1992, No. 438, eff. 7-1-92.

**RL 2.10 Administrative law judge.** (1) **DESIGNATION.** Disciplinary hearings shall be presided over by an administrative law judge employed by the department unless the disciplinary authority designates otherwise. The administrative law judge shall be an attorney in the department designated by the department general counsel, an employee borrowed from another agency pursuant to s. 20.901, Stats., or a person employed as a special project or limited term employee by the department, except that the administrative law judge may not be an employee in the division.

(2) **AUTHORITY.** An administrative law judge designated under this section to preside over any disciplinary proceeding has the authority described in s. 227.46 (1), Stats. Unless otherwise directed by a disciplinary authority pursuant to s. 227.46 (3), Stats., an administrative law judge presiding over a disciplinary proceeding shall prepare a proposed decision, including findings of fact, conclusions of law, order and opinion, in a form that may be adopted as the final decision in the case.

(3) **SERVICE OF PROPOSED DECISION.** Unless otherwise directed by a disciplinary authority, the proposed decision shall be served by the administrative law judge on all parties with a notice providing each party adversely affected by the proposed decision with an opportunity to file with the disciplinary authority objections and written argument with respect to the objections. A party adversely affected by a proposed decision shall have at least 10 days from the date of service of the proposed decision to file objections and argument.

**History:** Cr. Register, October, 1978, No. 274, eff. 11-1-78; r. and recr. (1), Register, November, 1986, No. 371, eff. 12-1-86; correction in (2) made under s. 13.93 (2m) (b) 7, Stats., Register, May, 1988, No. 389; am. Register, June, 1992, No. 438, eff. 7-1-92.

**RL 2.11 Prehearing conference.** In any matter pending before the disciplinary authority the complainant and the respondent, or their attorneys, may be directed by the disciplinary authority or administrative law judge to appear at a conference or to participate in a telephone conference to consider the simplifica-



tion of issues, the necessity or desirability of amendments to the pleadings, the admission of facts or documents which will avoid unnecessary proof and such other matters as may aid in the disposition of the matter.

**History:** Cr. Register, October, 1978, No. 274, eff. 11-1-78; am. Register, June, 1992, No. 438, eff. 1992.

**RL 2.12 Settlements.** No stipulation or settlement agreement disposing of a complaint or informal complaint shall be effective or binding in any respect until reduced to writing, signed by the respondent and approved by the disciplinary authority.

**History:** Cr. Register, October, 1978, No. 274, eff. 11-1-78; am. Register, June, 1992, No. 438, eff. 7-1-92.

**RL 2.13 Discovery.** The person prosecuting the complaint and the respondent may, prior to the date set for hearing, obtain discovery by use of the methods described in ch. 804, Stats., for the purposes set forth therein. Protective orders, including orders to terminate or limit examinations, orders compelling discovery, sanctions provided in s. 804.12, Stats. or other remedies as are appropriate for failure to comply with such orders may be made by the presiding officer.

**History:** Cr. Register, October, 1978, No. 274, eff. 11-1-78.

**RL 2.14 Default.** If the respondent fails to answer as required by s. RL 2.09 or fails to appear at the hearing at the time fixed therefor, the respondent is in default and the disciplinary authority may make findings and enter an order on the basis of the complaint and other evidence. The disciplinary authority may, for good cause, relieve the respondent from the effect of such findings and permit the respondent to answer and defend at any time before the disciplinary authority enters an order or within a reasonable time thereafter.

**History:** Cr. Register, October, 1978, No. 274, eff. 11-1-78; am. Register, June, 1992, No. 438, eff. 7-1-92.

**RL 2.15 Conduct of hearing. (1) PRESIDING OFFICER.** The hearing shall be presided over by a member of the disciplinary authority or an administrative law judge designated pursuant to s. RL 2.10.

**(2) RECORD.** A stenographic, electronic or other record shall be made of all hearings in which the testimony of witnesses is offered as evidence.

**(3) EVIDENCE.** The complainant and the respondent shall have the right to appear in person or by counsel, to call, examine, and cross-examine witnesses and to introduce evidence into the record.

**(4) BRIEFS.** The presiding officer may require the filing of briefs.

**(5) MOTIONS.** All motions, except those made at hearing, shall be in writing, filed with the presiding officer and a copy served upon the opposing party not later than 5 days before the time specified for hearing the motion.

**(6) ADJOURNMENTS.** The presiding officer may, for good cause, grant continuances, adjournments and extensions of time.

**(7) SUBPOENAS.** (a) Subpoenas for the attendance of any witness at a hearing in the proceeding may be issued in accordance with s. 885.01, Stats. Service shall be made in the manner provided in s. 805.07 (5), Stats. A subpoena may command the person to whom it is directed to produce the books, papers, documents, or tangible things designated therein.

(b) A presiding officer may issue protective orders according to the provision the provisions of s. 805.07, Stats.

**(8) LOCATION OF HEARING.** All hearings shall be held at the offices of the department of regulation and licensing in Madison unless the presiding officer determines that the health or safety of a witness or of a party or an emergency requires that a hearing be held elsewhere.

**History:** Cr. Register, October, 1978, No. 273, eff. 11-1-78; am. (1), (5) and (6), cr. (8), Register, June, 1992, No. 438, eff. 7-1-92.

**RL 2.16 Witness fees and costs.** Witnesses subpoenaed at the request of the division or the disciplinary authority shall be entitled to compensation from the state for attendance and travel as provided in ch. 885, Stats.

**History:** Cr. Register, October, 1978, No. 274, eff. 11-1-78; am. Register, June, 1992, No. 438, eff. 7-1-92.

**RL 2.17 Transcription fees. (1)** The fee charged for a transcript of a proceeding under this chapter shall be computed by the person or reporting service preparing the transcript on the following basis:

(a) If the transcript is prepared by a reporting service, the fee charged for an original transcription and for copies shall be the amount identified in the state operational purchasing bulletin which identifies the reporting service and its fees.

(b) If a transcript is prepared by the department, the department shall charge a transcription fee of \$1.75 per page and a copying charge of \$.25 per page. If 2 or more persons request a transcript, the department shall charge each requester a copying fee of \$.25 per page, but may divide the transcript fee equitably among the requesters. If the department has prepared a written transcript for its own use prior to the time a request is made, the department shall assume the transcription fee, but shall charge a copying fee of \$.25 per page.

**(2)** A person who is without means and who requires a transcript for appeal or other reasonable purposes shall be furnished with a transcript without charge upon the filing of a petition of indigency signed under oath.

**History:** Cr. Register, October, 1978, No. 274, eff. 11-1-78; am. (1) Register, May, 1982, No. 317, eff. 6-1-82; r. and recr. Register, June, 1992, No. 438, eff. 7-1-92; am. (1) (b). Register, August, 1993, No. 452, eff. 9-1-93.

**RL 2.18 Assessment of costs. (1)** The proposed decision of an administrative law judge following hearing shall include a recommendation whether all or part of the costs of the proceeding shall be assessed against the respondent.

**(2)** If a respondent objects to the recommendation of an administrative law judge that costs be assessed, objections to the assessment of costs shall be filed, along with any other objections to the proposed decision, within the time established for filing of objections.

**(3)** The disciplinary authority's final decision and order imposing discipline in a disciplinary proceeding shall include a determination whether all or part of the costs of the proceeding shall be assessed against the respondent.

**(4)** When costs are imposed, the division and the administrative law judge shall file supporting affidavits showing costs incurred within 15 days of the date of the final decision and order. The respondent shall file any objection to the affidavits within 30 days of the date of the final decision and order. The disciplinary authority shall review any objections, along with the affidavits, and affirm or modify its order without a hearing.

**History:** Cr. Register, June, 1992, No. 438, eff. 7-1-92.

**Chapter RL 2**  
**APPENDIX I**  
**NOTICE OF HEARING**

---

THE STATE OF WISCONSIN

To each person named above as a respondent:

You are hereby notified that disciplinary proceedings have been commenced against you before the ( #1 ). The Complaint, which is attached to this Notice, states the nature and basis of the proceeding. This proceeding may result in disciplinary action taken against you by the ( #2 ). This proceeding is a class 2 proceeding as defined in s. 227.01 (3) (b), Wis. Stats.

Within 20 days from the date of service of the complaint, you must respond with a written Answer to the allegations of the Complaint. You may have an attorney help or represent you. The Answer shall follow the general rules of pleading contained in s. RL 2.09. If you do not provide a proper Answer within 20 days, you will be found to be in default, and a default judgment may be entered against you on the basis of the complaint and other evidence and the ( #3 ) may take disciplinary action against you and impose the costs of the investigation, prosecution and decision of this matter upon you without further notice or hearing.

The original of your Answer should be filed with the Administrative Law Judge who has been designated to preside over this matter pursuant to s. RL 2.10, who is:

( #4 )  
Department of Regulation and Licensing  
Office of Board Legal Services  
P. O. Box 8935  
Madison, Wisconsin 53708

You should also file a copy of your Answer with the complainant's attorney, who is:

( #5 )  
Department of Regulation and Licensing  
Division of Enforcement  
P. O. Box 8935  
Madison, Wisconsin 53708

A hearing on the matters contained in the Complaint will be held at the time and location indicated below:

Hearing Date, Time and Location

Date: ( #6 )  
Time: ( #7 )  
Location: Room( #8 )  
1400 East Washington Ave  
Madison, Wisconsin

or as soon thereafter as the matter may be heard. The questions to be determined at this hearing are whether the license previously issued to you should be revoked or suspended, whether such license should be limited, whether you should be reprimanded, whether, if authorized by law, a forfeiture should be imposed, or whether any other discipline should be imposed on you. You may be represented by an attorney at the hearing. The legal authority and procedures under which the hearing is to be held is set forth in s. 227.44, Stats., s. ( #9 ), Stats., ch. RL 2, and s. ( #10 ).

If you do not appear for hearing at the time and location set forth above, you will be found to be in default, and a default judgment may be entered against you on the basis of the complaint and other evidence and the ( #11 ) may take disciplinary action against you and impose the costs of the investigation, prosecution and decision of this matter upon you without further notice or hearing.

If you choose to be represented by an attorney in this proceeding, the attorney is requested to file a Notice of Appearance with the disciplinary authority and the Administrative Law Judge within 20 days of your receiving this Notice.

Dated at Madison, Wisconsin this \_\_\_\_\_ day of,

\_\_\_\_\_  
Signature of Licensing Authority Member or Attorney  
( #12 )

INSERTIONS

1. Disciplinary authority
2. Disciplinary authority
3. Disciplinary authority
4. Administrative Law Judge
5. Complainant's attorney
6. Date of hearing
7. Time of hearing
8. Location of hearing
9. Legal authority (statute)
10. Legal authority (administrative code)
11. Disciplinary authority
12. Address and telephone number of person signing the complaint

## Chapter RL 3

## ADMINISTRATIVE INJUNCTIONS

RL 3.01	Authority.	RL 3.09	Administrative law judge
RL 3.02	Scope; kinds of proceedings.	RL 3.10	Prehearing conference.
RL 3.03	Definitions.	RL 3.11	Settlements.
RL 3.04	Pleadings to be captioned.	RL 3.12	Discovery.
RL 3.05	Petition for administrative injunction.	RL 3.13	Default.
RL 3.06	Notice of hearing.	RL 3.14	Conduct of hearing.
RL 3.07	Service and filing of petition, notice of hearing and other papers	RL 3.15	Witness fees and costs.
RL 3.08	Answer.	RL 3.16	Transcription fees.

**RL 3.01 Authority.** The rules in ch. RL 3 are adopted pursuant to authority in ss. 440.03 (1) and 440.21, Stats.

**History:** Cr. Register, July, 1993, No. 451, eff. 8-1-93.

**RL 3.02 Scope; kinds of proceedings.** The rules in this chapter govern procedures in public hearings before the department to determine and make findings as to whether a person has engaged in a practice or used a title without a credential required under chs. 440 to 459, Stats., and for issuance of an administrative injunction.

**History:** Cr. Register, July, 1993, No. 451, eff. 8-1-93.

**RL 3.03 Definitions.** In this chapter:

(1) "Administrative injunction" means a special order enjoining a person from the continuation of a practice or use of a title without a credential required under chs. 440 to 459, Stats.

(2) "Credential" means a license, permit, or certificate of certification or registration that is issued under chs. 440 to 459, Stats.

(3) "Department" means the department of regulation and licensing.

(4) "Division" means the division of enforcement in the department.

(5) "Petition" means a document which meets the requirements of s. RL 3.05.

(6) "Respondent" means the person against whom an administrative injunction proceeding has been commenced and who is named as respondent in a petition.

**History:** Cr. Register, July, 1993, No. 451, eff. 8-1-93.

**RL 3.04 Pleadings to be captioned.** All pleadings, notices, orders, and other papers filed in an administrative injunction proceeding shall be captioned: "BEFORE THE DEPARTMENT OF REGULATION AND LICENSING" and shall be entitled: "IN THE MATTER OF A PETITION FOR AN ADMINISTRATIVE INJUNCTION INVOLVING \_\_\_\_\_, RESPONDENT."

**History:** Cr. Register, July, 1993, No. 451, eff. 8-1-93.

**RL 3.05 Petition for administrative injunction.** A petition for an administrative injunction shall allege that a person has engaged in a practice or used a title without a credential required under chs. 440 to 459, Stats. A petition may be made on information and belief and shall contain:

(1) The name and address of the respondent and the name and address of the attorney in the division who is prosecuting the petition for the division;

(2) A short statement in plain language of the basis for the division's belief that the respondent has engaged in a practice or used a title without a credential required under chs. 440 to 459, Stats., and specifying the statute or rule alleged to have been violated;

(3) A request in essentially the following form: "Wherefore, the division demands that a public hearing be held and that the de-

partment issue a special order enjoining the person from the continuation of the practice or use of the title;" and,

(4) The signature of an attorney authorized by the division to sign the petition.

**History:** Cr. Register, July, 1993, No. 451, eff. 8-1-93.

**RL 3.06 Notice of hearing. (1)** A notice of hearing shall be sent to the respondent by the division at least 10 days prior to the hearing, except in the case of an emergency in which shorter notice may be given, but in no case may the notice be provided less than 48 hours in advance of the hearing.

(2) A notice of hearing to the respondent shall be essentially in the form shown in Appendix I and signed by an attorney in the division.

**History:** Cr. Register, July, 1993, No. 451, eff. 8-1-93.

**RL 3.07 Service and filing of petition, notice of hearing and other papers. (1)** The petition, notice of hearing, all orders and other papers required to be served on a respondent may be served by mailing a copy of the paper to the respondent at the last known address of the respondent or by any procedure described in s. 801.14 (2), Stats. Service by mail is complete upon mailing.

(2) Any paper required to be filed with the department may be mailed to the administrative law judge designated to preside in the matter and shall be deemed filed on receipt by the administrative law judge. An answer under s. RL 3.08, and motions under s. RL 3.14 may be filed and served by facsimile transmission. A document filed by facsimile transmission under this section shall also be mailed to the department. An answer or motion filed by facsimile transmission shall be deemed filed on the first business day after receipt by the department.

**History:** Cr. Register, July, 1993, No. 451, eff. 8-1-93.

**RL 3.08 Answer. (1)** An answer to a petition shall state in short and plain terms the defenses to each allegation asserted and shall admit or deny the allegations upon which the division relies. If the respondent is without knowledge or information sufficient to form a belief as to the truth of the allegation, the respondent shall so state and this has the effect of a denial. Denials shall fairly meet the substance of the allegations denied. The respondent shall make denials as specific denials of designated allegations or paragraphs but if the respondent intends in good faith to deny only a part or to provide a qualification of an allegation, the respondent shall specify so much of it as true and material and shall deny only the remainder.

(2) The respondent shall set forth affirmatively in the answer any matter constituting an affirmative defense.

(3) Allegations in a petition are admitted when not denied in the answer.

(4) An answer to a petition shall be filed within 20 days from the date of service of the petition.

**History:** Cr. Register, July, 1993, No. 451, eff. 8-1-93.

**RL 3.09 Administrative law judge. (1) DESIGNATION.** Administrative injunction proceedings shall be presided over by an administrative law judge. The administrative law judge shall be an attorney in the department designated by the department general counsel, an employee borrowed from another agency pursuant to s. 20.901, Stats., or a person employed as a special project or limited term employee by the department. The administrative law judge may not be an employee in the division.

**(2) AUTHORITY.** An administrative law judge designated under this section has the authority described in s. 227.46 (1), Stats. Unless otherwise directed under s. 227.46 (3), Stats., an administrative law judge shall prepare a proposed decision, including findings of fact, conclusions of law, order and opinion, in a form that may be adopted by the department as the final decision in the case.

**(3) SERVICE OF PROPOSED DECISION.** The proposed decision shall be served by the administrative law judge on all parties with a notice providing each party adversely affected by the proposed decision with an opportunity to file with the department objections and written argument with respect to the objections. A party adversely affected by a proposed decision shall have at least 10 days from the date of service of the proposed decision to file objections and argument.

History: Cr. Register, July, 1993, No. 451, eff. 8-1-93.

**RL 3.10 Prehearing conference.** In any matter pending before the department, the division and the respondent may be directed by the administrative law judge to appear at a conference or to participate in a telephone conference to consider the simplification of issues, the necessity or desirability of amendments to the pleading, the admission of facts or documents which will avoid unnecessary proof and such other matters as may aid in the disposition of the matter.

History: Cr. Register, July, 1993, No. 451, eff. 8-1-93.

**RL 3.11 Settlements.** No stipulation or settlement agreement disposing of a petition or informal petition shall be effective or binding in any respect until reduced to writing, signed by the respondent and approved by the department.

History: Cr. Register, July, 1993, No. 451, eff. 8-1-93.

**RL 3.12 Discovery.** The division and the respondent may, prior to the date set for hearing, obtain discovery by use of the methods described in ch. 804, Stats., for the purposes set forth therein. Protective orders, including orders to terminate or limit examinations, orders compelling discovery, sanctions provided in s. 804.12, Stats., or other remedies as are appropriate for failure to comply with such orders may be made by the administrative law judge.

History: Cr. Register, July, 1993, No. 451, eff. 8-1-93.

**RL 3.13 Default.** If the respondent fails to answer as required by s. RL 3.08 or fails to appear at the hearing at the time fixed therefor, the respondent is in default and the department may make findings and enter an order on the basis of the petition and other evidence. The department may, for good cause, relieve the respondent from the effect of the findings and permit the respondent to answer and defend at any time before the department enters an order or within a reasonable time thereafter.

History: Cr. Register, July, 1993, No. 451, eff. 8-1-93.

**RL 3.14 Conduct of hearing. (1) ADMINISTRATIVE LAW JUDGE.** The hearing shall be presided over by an administrative law judge designated pursuant to s. RL 3.09.

**(2) RECORD.** A stenographic, electronic or other record shall be made of all hearings in which the testimony of witnesses is offered as evidence.

**(3) EVIDENCE.** The division and the respondent shall have the right to appear in person or by counsel, to call, examine, and cross-examine witnesses and to introduce evidence into the record.

**(4) BRIEFS.** The administrative law judge may require the filing of briefs.

**(5) MOTIONS.** (a) *How made.* An application to the administrative law judge for an order shall be by motion which, unless made during a hearing or prehearing conference, shall be in writing, state with particularity the grounds for the order, and set forth the relief or order sought.

(b) *Filing.* A motion shall be filed with the administrative law judge and a copy served upon the opposing party not later than 5 days before the time specified for hearing the motion.

(c) *Supporting papers.* Any briefs or other papers in support of a motion, including affidavits and documentary evidence, shall be filed with the motion.

**(6) ADJOURNMENTS.** The administrative law judge may, for good cause, grant continuances, adjournments and extensions of time.

**(7) SUBPOENAS.** (a) Subpoenas for the attendance of any witness at a hearing in the proceeding may be issued in accordance with s. 885.01, Stats. Service shall be made in the manner provided in s. 805.07 (5), Stats. A subpoena may command the person to whom it is directed to produce the books, papers, documents, or tangible things designated therein.

(b) An administrative law judge may issue protective orders according to the provisions of s. 805.07, Stats.

**(8) LOCATION OF HEARING.** All hearings shall be held at the offices of the department in Madison unless the administrative law judge determines that the health or safety of a witness or of a party or an emergency requires that a hearing be held elsewhere.

History: Cr. Register, July, 1993, No. 451, eff. 8-1-93.

**RL 3.15 Witness fees and costs.** Witnesses subpoenaed at the request of the division shall be entitled to compensation from the state for attendance and travel as provided in ch. 885, Stats.

History: Cr. Register, July, 1993, No. 451, eff. 8-1-93.

**RL 3.16 Transcription fees. (1)** The fee charged for a transcript of a proceeding under this chapter shall be computed by the person or reporting service preparing the transcript on the following basis:

(a) If the transcript is prepared by a reporting service, the fee charged for an original transcription and for copies shall be the amount identified in the state operational purchasing bulletin which identifies the reporting service and its fees.

**Note:** The State Operational Purchasing Bulletin may be obtained from the Department of Administration, State Bureau of Procurement, 101 E. Wilson Street, 6th Floor, P.O. Box 7567, Madison, Wisconsin 53707-7867.

(b) If a transcript is prepared by the department, the department shall charge a transcription fee of \$1.75 per page and a copying charge of \$.25 per page. If 2 or more persons request a transcript, the department shall charge each requester a copying fee of \$.25 per page, but may divide the transcript fee equitably among the requesters. If the department has prepared a written transcript for its own use prior to the time a request is made, the department shall assume the transcription fee, but shall charge a copying fee of \$.25 per page.

**(2)** A person who is without means and who requires a transcript for appeal or other reasonable purposes shall be furnished with a transcript without charge upon the filing of an affidavit showing that the person is indigent according to the standards adopted in rules of the state public defender under ch. 977, Stats.

History: Cr. Register, July, 1993, No. 451, eff. 8-1-93.

## Chapter RL 3

## APPENDIX I

STATE OF WISCONSIN  
BEFORE THE DEPARTMENT OF REGULATION AND  
LICENSING

IN THE MATTER OF A PETITION :  
FOR AN ADMINISTRATIVE; NOTICE OF  
INJUNCTION INVOLVING : HEARING

(#1),

Respondent.

NOTICE OF HEARING

TO: (#2)

You are hereby notified that a proceeding for an administrative injunction has been commenced against you by the Department of Regulation and Licensing. The petition attached to this Notice states the nature and basis of the proceeding. This proceeding may result in a special order against you under s. 440.21, Stats., enjoining you from the continuation of a practice or use of a title.

**A HEARING ON THE MATTERS CONTAINED IN THE PETITION WILL BE HELD AT:**

**Date: (#3) Time: (#4)**  
**Location: Room (#5),**  
**1400 East Washington Avenue**  
**Madison, Wisconsin**

**or as soon thereafter as the matter may be heard.**

The questions to be determined at this hearing are whether (#6).

Within 20 days from the date of service of the Notice, you must respond with a written Answer to the allegations of the Petition. You may have an attorney help or represent you. Your Answer must follow the rules of pleading in s. RL 3.08 of the Wisconsin Administrative Code. File your Answer with the Administrative Law Judge for this matter who is:

(#7), Department of Regulation and Licensing, Office of Board Legal Services,  
P.O. Box 8935,  
Madison, Wisconsin 53708

Please file a copy of your answer with the division's attorney, who is:

(#8), Division of Enforcement,  
Department of Regulation and Licensing,  
P.O. Box 8935,  
Madison, Wisconsin 53708

If you do not provide a proper Answer within 20 days or do not appear for the hearing, you will be found to be in default and a special order may be entered against you enjoining you from the continuation of a practice or use of a title. If a special order is issued as a result of this proceeding and thereafter you violate the special order, you may be required to forfeit not more than \$1 0,000 for each offense.

You may be represented by an attorney at the hearing. This proceeding is a class 2 proceeding as defined in s. 227.01 (3) (b), Stats. If you choose to be represented by an attorney in this proceeding, the attorney is requested to file a Notice of Appearance with the Administrative Law Judge and the division within 20 days after you receive this Notice.

The legal authority and procedures under which the hearing is to be held are set forth in ss. 227.21, 440.44, (#9), Stats., and ch. RL 3. Wis. Admin. Code.

Dated at Madison, Wisconsin this \_\_\_\_\_ day of \_\_\_\_ 20\_\_.

(...#10...), Attorney

INSERTIONS

1. Respondent
2. Respondent with address
3. Date of hearing
4. Time of hearing
5. Place of hearing
6. Issues for hearing
7. Administrative Law Judge
8. Division of Enforcement attorney
9. Legal authority (statute)
10. Division of Enforcement attorney

## Chapter RL 4

DEPARTMENT APPLICATION PROCEDURES AND  
APPLICATION FEE POLICIES

RL 4.01 Authorization.  
 RL 4.02 Definitions.  
 RL 4.03 Time for review and determination of credential applications.

RL 4.04 Fees for examinations, reexaminations and proctoring examinations.  
 RL 4.05 Fee for test review  
 RL 4.06 Refunds.

**RL 4.01 Authorization.** The following rules are adopted by the department of regulation and licensing pursuant to ss. 440.05, 440.06 and 440.07, Stats.

**History:** Cr Register, October, 1978, No. 274, eff. 11-1-78, **am. Register, July, 1996, No. 487, eff. 8-1-96.**

**RL 4.02 Definitions.** (1) "Applicant" means a person who applies for a license, permit, certificate or registration granted by the department or a board.

(2) "Authority" means the department or the attached examining board or board having authority to grant the credential for which an application has been filed.

(3) "Board" means the board of nursing and any examining board attached to the department.

(4) "Department" means the department of regulation and licensing.

(5) "Examination" means the written and practical tests required of an applicant by the authority.

(6) "Service provider" means a party other than the department or board who provides examination services such as application processing, examination products or administration of examinations.

**History:** Cr Register, October, 1978, No. 274, eff. 11-1-78; **renum. (1) to (4) to be (4), (3), (1), (5) and am. (5), cr. (2) and (6), Register, July, 1996, No. 487, eff. 8-1-96.**

**RL 4.03 Time for review and determination of credential applications.** (1) **TIME LIMITS.** An authority shall review and make a determination on an original application for a credential within 60 business days after a completed application is received by the authority unless a different period for review and determination is specified by law.

(2) **COMPLETED APPLICATIONS.** An application is completed when all materials necessary to make a determination on the application and all materials requested by the authority have been received by the authority.

(3) **EFFECT OF DELAY.** A delay by an authority in making a determination on an application within the time period specified in this section shall be reported to the permit information center under s. 227.116, Stats. Delay by an authority in making a determination on an application within the time period specified in this section does not relieve any person from the obligation to secure approval from the authority nor affect in any way the authority's responsibility to interpret requirements for approval and to grant or deny approval.

**History:** Cr Register, August, 1992, No. 440, eff. 9-1-92; **renum. from RL 4.06 and am., Register, July, 1996, No. 487, eff. 8-1-96.**

**RL 4.04 Fees for examinations, reexaminations and proctoring examinations.** (1) **EXAMINATION FEE SCHEDULE.** A list of all current examination fees may be obtained at no charge from the Office of Examinations, Department of Regulation and Licensing, 1400 East Washington Avenue, P.O. Box 8935, Madison, WI 53708.

(3) **EXPLANATION OF PROCEDURES FOR SETTING EXAMINATION FEES.** (a) Fees for examinations shall be established under s. 440.05 (1) (b), Stats., at the department's best estimate of the

actual cost of preparing, administering and grading the examination or obtaining and administering an approved examination from a service provider.

(b) Examinations shall be obtained from a service provider through competitive procurement procedures described in ch. Adm 7.

(c) Fees for examination services provided by the department shall be established based on an estimate of the actual cost of the examination services. Computation of fees for examination services provided by the department shall include standard component amounts for contract administration services, test development services and written and practical test administration services.

(d) Examination fees shall be changed as needed to reflect changes in the actual costs to the department. Changes to fees shall be implemented according to par. (e).

(e) Examination fees shall be effective for examinations held 45 days or more after the date of publication of a notice in application forms. Applicants who have submitted fees in an amount less than that in the most current application form shall pay the correct amount prior to administration of the examination. Overpayments shall be refunded by the department. Initial credential fees shall become effective on the date specified by law.

(4) **REEXAMINATION OF PREVIOUSLY LICENSED INDIVIDUALS.** Fees for examinations ordered as part of a disciplinary proceeding or late renewal under s. 440.08 (3) (b), Stats., are equal to the fee set for reexamination in the most recent examination application form, plus \$10 application processing.

(5) **PROCTORING EXAMINATIONS FOR OTHER STATES.** (a) Examinations administered by an authority of the state may be proctored for persons applying for credentials in another state if the person has been determined eligible in the other state and meets this state's application deadlines. Examinations not administered by an authority of the state may only be proctored for Wisconsin residents or licensees applying for credentials in another state.

(b) Department fees for proctoring examinations of persons who are applying for a Credential in another state are equal to the cost of administering the examination to those persons, plus any additional cost charged to the department by the service provider.

**History:** Cr Register, October, 1978, No. 274, eff. 11-1-78; **r. and recr. Register, May, 1986, No. 365, eff. 6-1-86; am. Register, December, 1986, No. 372, eff. 1-1-87; am. Register, September, 1987, No. 381, eff. 10-1-87; am. (3), Register, September, 1988, No. 393, eff. 10-1-88; am. (3), Register, September, 1990, No. 417, eff. 10-1-90; r. and recr. (1) to (3), cr. (4), renum. Figure and am. Register, April, 1992, No. 436, eff. 5-1-92; **am. (4) Figure, cr. (5), Register, July, 1993, No. 451, eff. 8-1-93; r. and recr. Register, November, 1993, No. 455, eff. 12-1-93; r. (2), am. (3) (a), (b), (c), (4), (5), Register, July, 1996, No. 487, eff. 8-1-96.****

**RL 4.05 Fee for test review.** (1) The fee for supervised review of examination results by a failing applicant which is conducted by the department is \$28.

(2) The fee for review of examination results by a service provider is the fee established by the service provider.

**History:** Cr Register, April, 1992, No. 436, eff. 5-1-92; **am. Register, July, 1996, No. 487, eff. 8-1-96.**

**RL 4.06 Refunds. (1)** A refund of all but \$10 of the applicant's examination fee and initial credential fee submitted to the department shall be granted if any of the following occurs:

(a) An applicant is found to be unqualified for an examination administered by the authority.

(b) An applicant is found to be unqualified for a credential for which no examination is required.

(c) An applicant withdraws an application by written notice to the authority at least 10 days in advance of any scheduled examination.

(d) An applicant who fails to take an examination administered by the authority either provides written notice at least 10 days in advance of the examination date that the applicant is unable to take the examination, or if written notice was not provided, submits a written explanation satisfactory to the authority that the applicant's failure to take the examination resulted from extreme personal hardship.

(2) An applicant eligible for a refund may forfeit the refund and choose instead to take an examination administered by the authority within 18 months of the originally scheduled examination at no added fee.

(3) An applicant who misses an examination as a result of being called to active military duty shall receive a full refund. The applicant requesting the refund shall supply a copy of the call up orders or a letter from the commanding officer attesting to the call up.

(4) Applicants who pay fees to service providers other than the department are subject to the refund policy established by the service provider.

**History:** Cr. Register, October, 1978, No. 274, eff. 11-1-78; am. (2)(intro.), Register, May, 1986, No. 365, eff. 6-1-86; am. (1) and (2)(intro.), renum. (2)(c) and (3) to be (3) and (4), cr. (5), Register, September, 1987, No. 381, eff. 10-1-87; r. and recr. (1) and (4), Register, April, 1992, No. 436, eff. 5-1-92; r. (2), renum. (3) to (5) to be (2) to (4), Register, July, 1993, No. 451, eff. 8-1-93; renum. from RL 4.03 and am., Register, July, 1996, No. 487, eff. 8-1-96.

## Chapter RL 6

## SUMMARY SUSPENSIONS

RL 6.01	Authority and intent.
RL 6.02	Scope.
RL 6.03	Definitions.
RL 6.04	Petition for summary suspension.
RL 6.05	Notice of petition to respondent.
RL 6.06	issuance of summary suspension order.

RL 6.07	Contents of summary suspension order.
RL 6.08	Service of summary suspension order.
RL 6.09	Hearing to show cause.
RL 6.10	Commencement of disciplinary proceeding.
RL 6.11	Delegation.

**RL 6.01 Authority and intent.** (1) This chapter is adopted pursuant to authority in ss. 227.11 (2) (a) and 440.03 (1), Stats., and interprets s. 227.51 (3), Stats.

(2) The intent of the department in creating this chapter is to specify uniform procedures for summary suspension of licenses, permits, certificates or registrations issued by the department or any board attached to the department in circumstances where the public health, safety or welfare imperatively requires emergency action.

**History:** Cr. Register, May, 1988, No. 389, eff. 6-1-88.

**RL 6.02 Scope.** This chapter governs procedures in all summary suspension proceedings against licensees before the department or any board attached to the department. To the extent that this chapter is not in conflict with s. 448.02 (4), Stats., the chapter shall also apply in proceedings brought under that section.

**History:** Cr. Register, May, 1988, No. 389, eff. 6-1-88.

**RL 6.03 Definitions.** In this chapter:

(1) “Board” means the bingo control board, real estate board or any examining board attached to the department.

(2) “Department” means the department of regulation and licensing.

(3) “Disciplinary proceeding” means a proceeding against one or more licensees in which a licensing authority may determine to revoke or suspend a license, to reprimand a licensee, or to limit a license.

(4) “License” means any license, permit, certificate, or registration granted by a board or the department or a right to renew a license, permit, certificate or registration granted by a board or the department.

(5) “Licensee” means a person, partnership, corporation or association holding any license.

(6) “Licensing authority” means the bingo control board, real estate board or any examining board attached to the department, the department for licenses granted by the department, or one acting under a board’s or the department’s delegation under s. RL 6.11.

(7) “Petitioner” means the division of enforcement in the department.

(8) “Respondent” means a licensee who is named as respondent in a petition for summary suspension.

**History:** Cr. Register, May, 1988, No. 389, eff. 6-1-88.

**RL 6.04 Petition for summary suspension.** (1) A petition for a summary suspension shall state the name and position of the person representing the petitioner, the address of the petitioner, the name and licensure status of the respondent, and an assertion of the facts establishing that the respondent has engaged in or is likely to engage in conduct such that the public health, safety or welfare imperatively requires emergency suspension of the respondent’s license.

(2) A petition for a summary suspension order shall be signed upon oath by the person representing the petitioner and may be made on information and belief.

(3) The petition shall be presented to the appropriate licensing authority.

**History:** Cr. Register, May, 1988, No. 389, eff. 6-1-88.

**RL 6.05 Notice of petition to respondent.** Prior to the presenting of the petition, the petitioner shall give notice to the respondent or respondent’s attorney of the time and place when the petition will be presented to the licensing authority. Notice may be given by mailing a copy of the petition and notice to the last-known address of the respondent as indicated in the records of the licensing authority as provided in s. 440.11 (2), Stats. as created by 1987 Wis. Act 27. Notice by mail is complete upon mailing. Notice may also be given by any procedure described in s. 801.11, Stats.

**History:** Cr. Register, May, 1988, No. 389, eff. 6-1-88.

**RL 6.06 Issuance of summary suspension order.**

(1) If the licensing authority finds that notice has been given under s. RL 6.05 and finds probable cause to believe that the respondent has engaged in or is likely to engage in conduct such that the public health, safety or welfare imperatively requires emergency suspension of the respondent’s license, the licensing authority may issue an order for summary suspension. The order may be issued at any time prior to or subsequent to the commencement of a disciplinary proceeding under s. RL 2.04.

(2) The petitioner may establish probable cause under sub. (1) by affidavit or other evidence.

(3) The summary suspension order shall be effective upon service under s. RL 6.08, or upon actual notice of the summary suspension order to the respondent or respondent’s attorney, whichever is sooner, and continue through the effective date of the final decision and order made in the disciplinary proceeding against the respondent, unless the license is restored under s. RL 6.09 prior to a formal disciplinary hearing.

**History:** Cr. Register, May, 1988, No. 389, eff. 6-1-88.

**RL 6.07 Contents of summary suspension order.**

The summary suspension order shall include the following:

(1) A statement that the suspension order is in effect and continues until the effective date of a final order and decision in the disciplinary proceeding against the respondent, unless otherwise ordered by the licensing authority;

(2) Notification of the respondent’s right to request a hearing to show cause why the summary suspension order should not be continued;

(3) The name and address of the licensing authority with whom a request for hearing should be filed;

(4) Notification that the hearing to show cause shall be scheduled for hearing on a date within 20 days of receipt by the licensing authority of respondent’s request for hearing, unless a later time is requested by or agreed to by the respondent;



(5) The identification of all witnesses providing evidence at the time the petition for summary suspension was presented and identification of the evidence used as a basis for the decision to issue the summary suspension order;

(6) The manner in which the respondent or the respondent's attorney was notified of the petition for summary suspension; and

(7) A finding that the public health, safety or welfare imperatively requires emergency suspension of the respondent's license.

**History:** Cr. Register, May, 1988, No. 389, eff. 6-1-88.

**RL 6.08 Service of summary suspension order.** An order of summary suspension shall be served upon the respondent in the manner provided in s. 801.11, Stats., for service of summons.

**History:** Cr. Register, May, 1988, No. 389, eff. 6-1-88.

**RL 6.09 Hearing to show cause.** (1) The respondent shall have the right to request a hearing to show cause why the summary suspension order should not be continued until the effective date of the final decision and order in the disciplinary action against the respondent.

(2) The request for hearing to show cause shall be filed with the licensing authority which issued the summary suspension order. The hearing shall be scheduled and heard promptly by the licensing authority but no later than 20 days after the filing of the request for hearing with the licensing authority, unless a later time is requested by or agreed to by the licensee.

(3) At the hearing to show cause the petitioner and the respondent may testify, call, examine and cross-examine witnesses, and offer other evidence.

(4) At the hearing to show cause the petitioner has the burden to show by a preponderance of the evidence why the summary suspension order should be continued.

(5) At the conclusion of the hearing to show cause the licensing authority shall make findings and an order. If it is determined that the summary suspension order should not be continued, the suspended license shall be immediately restored.

**History:** Cr. Register, May, 1988, No. 389, eff. 6-1-88.

**RL 6.10 Commencement of disciplinary proceeding.** (1) A notice of hearing commencing a disciplinary proceeding under s. RL 2.06 against the respondent shall be issued no later than 10 days following the issuance of the summary suspension order or the suspension shall lapse on the tenth day following issuance of the summary suspension order. The formal disciplinary proceeding shall be determined promptly.

(2) If at any time the disciplinary proceeding is not advancing with reasonable promptness, the respondent may make a motion to the hearing officer or may directly petition the appropriate board, or the department, for an order granting relief.

(3) If it is found that the disciplinary proceeding is not advancing with reasonable promptness, and the delay is not as a result of the conduct of respondent or respondent's counsel, a remedy, as would be just, shall be granted including:

(a) An order immediately terminating the summary suspension; or

(b) An order compelling that the disciplinary proceeding be held and determined by a specific date.

**History:** Cr. Register, May, 1988, No. 389, eff. 6-1-88.

**RL 6.11 Delegation.** (1) A board may by a two-thirds vote:

(a) Designate under s. 227.46 (1), Stats., a member of the board or an employee of the department to rule on a petition for summary suspension, to issue a summary suspension order, and to preside over and rule in a hearing provided for in s. RL 6.09; or

(b) Appoint a panel of no less than two-thirds of the membership of the board to rule on a petition for summary suspension, to issue a summary suspension order, and to preside over and rule in a hearing provided for in s. RL 6.09.

(2) In matters in which the department is the licensing authority, the department secretary or the secretary's designee shall rule on a petition for summary suspension, issue a summary suspension order, and preside over and rule in a hearing provided for in s. RL 6.09.

(3) Except as provided in s. 227.46 (3), Stats., a delegation of authority under subs. (1) and (2) may be continuing.

**History:** Cr. Register, May, 1988, No. 389, eff. 6-1-88.

## Chapter RL 7

## IMPAIRED PROFESSIONALS PROCEDURE

RL 7.01	Authority and intent.	RL 7.07	Intradepartmental referral.
RL 7.02	Definitions.	RL 7.08	Records.
RL 7.03	Referral to and eligibility for the procedure.	RL 7.09	Report.
RL 7.04	Requirements for participation.	RL 7.10	Applicability of procedures to direct licensing by the department.
RL 7.05	Agreement for participation.	RL 7.11	Approval of drug testing programs.
RL 7.06	Standards for approval of treatment facilities or individual therapists.		

**RL 7.01 Authority and intent.** (1) The rules in this chapter are adopted pursuant to authority in ss. 15.08 (5) (b), 51.30, 146.82, 227.11 and 440.03, Stats.

(2) The intent of the department in adopting rules in this chapter is to protect the public from credential holders who are impaired by reason of their abuse of alcohol or other drugs. This goal will be advanced by providing an option to the formal disciplinary process for qualified credential holders committed to their own recovery. This procedure is intended to apply when allegations are made that a credential holder has practiced a profession while impaired by alcohol or other drugs or when a credential holder contacts the department and requests to participate in the procedure. It is not intended to apply in situations where allegations exist that a credential holder has committed violations of law, other than practice while impaired by alcohol or other drugs, which are substantial. The procedure may then be utilized in selected cases to promote early identification of chemically dependent professionals and encourage their rehabilitation. Finally, the department's procedure does not seek to diminish the prosecution of serious violations but rather it attempts to address the problem of alcohol and other drug abuse within the enforcement jurisdiction of the department.

(3) In administering this program, the department intends to encourage board members to share professional expertise so that all boards in the department have access to a range of professional expertise to handle problems involving impaired professionals.

**History:** Cr. Register, January, 1991, No. 421, eff. 2-1-91; am. (2), Register, July, 1996, No. 487, eff. 8-1-96.

**RL 7.02 Definitions.** In this chapter:

(1) "Board" means any examining board or affiliated credentialing board attached to the department and the real estate board.

(2) "Board liaison" means the board member designated by the board as responsible for approving credential holders for the impaired professionals procedure under s. RL 7.03, for monitoring compliance with the requirements for participation under s. RL 7.04, and for performing other responsibilities delegated to the board liaison under these rules.

(2a) "Coordinator" means a department employee who coordinates the impaired professionals procedure.

(2b) "Credential holder" means a person holding any license, permit, certificate or registration granted by the department or any board.

(3) "Department" means the department of regulation and licensing.

(4) "Division" means the division of enforcement in the department.

(5) "Informal complaint" means any written information submitted by any person to the division, department or any board which requests that a disciplinary proceeding be commenced against a credential holder or which alleges facts, which if true, warrant discipline. "Informal complaint" includes requests for disciplinary proceedings under s. 440.20, Stats.

(6) "Medical review officer" means a medical doctor or doctor of osteopathy who is a licensed physician and who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result together with an individual's medical history and any other relevant biomedical information.

(7) "Procedure" means the impaired professionals procedure.

(8) "Program" means any entity approved by the department to provide the full scope of drug testing services for the department.

**History:** Cr. Register, January, 1991, No. 421, eff. 2-1-91; am. (1), (2), (5), cr. (2a), (2b), r. (6), Register, July, 1996, No. 487, eff. 8-1-96; cr. (6) and (8), Register, January, 2001, No. 541, eff. 2-1-01.

**RL 7.03 Referral to and eligibility for the procedure.**

(1) All informal complaints involving allegations of impairment due to alcohol or chemical dependency shall be screened and investigated pursuant to s. RL 2.035. After investigation, informal complaints involving impairment may be referred to the procedure and considered for eligibility as an alternative to formal disciplinary proceedings under ch. RL 2.

(2) A credential holder who has been referred to the procedure and considered for eligibility shall be provided with an application for participation, a summary of the investigative results in the form of a draft statement of conduct to be used as a basis for the statement of conduct under s. RL 7.05 (1) (a), and a written explanation of the credential holder's options for resolution of the matter through participation in the procedure or through the formal disciplinary process pursuant to ch. RL 2.

(3) Eligibility for the procedure shall be determined by the board liaison and coordinator who shall review all relevant materials including investigative results and the credential holder's application for participation. Eligibility shall be determined upon criteria developed by each credentialing authority which shall include at a minimum the credential holder's past or pending criminal, disciplinary or malpractice record, the circumstances of the credential holder's referral to the department, the seriousness of other alleged violations and the credential holder's prognosis for recovery. The decision on eligibility shall be consistent with the purposes of these procedures as described in s. RL 7.01 (2). The board liaison shall have responsibility to make the determination of eligibility for the procedure.

(4) Prior to the signing of an agreement for participation the credential holder shall obtain a comprehensive assessment for chemical dependency from a treatment facility or individual therapist approved under s. RL 7.06. The credential holder shall arrange for the treatment facility or individual therapist to file a copy of its assessment with the board liaison or coordinator. The assessment shall include a statement describing the credential holder's prognosis for recovery. The board liaison and the credential holder may agree to waive this requirement.

(5) If a credential holder is determined to be ineligible for the procedure, the credential holder shall be referred to the division for prosecution.

(6) A credential holder determined to be ineligible for the procedure by the board liaison or the department may, within 10 days of notice of the determination, request the credentialing authority to review the adverse determination.

History: Cr. Register, January, 1991, No. 421, eff. 2-1-91; am. (2) to (6), Register, July, 1996, No. 487, eff. 8-1-96.

**RL 7.04 Requirements for participation.** (1) A credential holder who participates in the procedure shall:

- (a) Sign an agreement for participation under s. RL 7.05.
- (b) Remain free of alcohol, controlled substances, and prescription drugs, unless prescribed for a valid medical purpose.
- (c) Timely enroll and participate in a program for the treatment of chemical dependency conducted by a facility or individual therapist approved pursuant to s. RL 7.06.
- (d) Comply with any treatment recommendations and work restrictions or conditions deemed necessary by the board liaison or department.
- (e) Submit random monitored blood or urine samples for the purpose of screening for alcohol or controlled substances provided by a drug testing program approved by the department under s. RL 7.11, as required.
- (f) Execute releases valid under state and federal law in the form shown in Appendix I to allow access to the credential holder's counseling, treatment and monitoring records.
- (g) Have the credential holder's supervising therapist and work supervisors file quarterly reports with the coordinator.
- (h) Notify the coordinator of any changes in the credential holder's employer within 5 days.
- (i) File quarterly reports documenting the credential holder's attendance at meetings of self-help groups such as alcoholics anonymous or narcotics anonymous.

(2) If the board liaison or department determines, based on consultation with the person authorized to provide treatment to the credential holder or monitor the credential holder's enrollment or participation in the procedure, or monitor any drug screening requirements or restrictions on employment under sub. (1), that a credential holder participating in the procedure has failed to meet any of the requirements set under sub. (1), the board liaison may request that the board dismiss the credential holder from the procedure. The board shall review the complete record in making this determination. If the credential holder is dismissed the matter shall be referred to the division.

(3) If a credential holder violates the agreement and the board does not dismiss and refer the credential holder to the division, then a new admission under s. RL 7.05 (1) (a) shall be obtained for violations which are substantiated.

History: Cr. Register, January, 1991, No. 421, eff. 2-1-91; am. Register, July, 1996, No. 487, eff. 8-1-96; am. (1) (e), Register, January, 2001, No. 541, eff. 2-1-01.

**RL 7.05 Agreement for participation.** (1) The agreement for participation in the procedure shall at a minimum include:

- (a) A statement describing conduct the credential holder agrees occurred relating to participation in the procedure and an agreement that the statement may be used as evidence in any disciplinary proceeding under ch. RL 2.
- (b) An acknowledgement by the credential holder of the need for treatment for chemical dependency;
- (c) An agreement to participate at the credential holder's expense in an approved treatment regimen.
- (d) An agreement to submit to random monitored drug screens provided by a drug testing program approved by the department under s. RL 7.11 at the credential holder's expense, if deemed necessary by the board liaison

(e) An agreement to submit to practice restrictions at any time during the treatment regimen as deemed necessary by the board liaison.

(f) An agreement to furnish the coordinator with signed consents for release of information from treatment providers and employers authorizing the release of information to the coordinator and board liaison for the purpose of monitoring the credential holder's participation in the procedure.

(g) An agreement to authorize the board liaison or coordinator to release information described in pars. (a), (c) and (e), the fact that a credential holder has been dismissed under s. RL 7.07 (3) (a) or violated terms of the agreement in s. RL 7.04 (1) (b) to (e) and (h) concerning the credential holder's participation in the procedure to the employer, therapist or treatment facility identified by the credential holder and an agreement to authorize the coordinator to release the results of random monitored drug screens under par. (d) to the therapist identified by the credential holder.

(h) An agreement to participate in the procedure for a period of time as established by the board.

(2) The board liaison may include additional requirements for an individual credential holder, if the circumstances of the informal complaint or the credential holder's condition warrant additional safeguards.

(3) The board or board liaison may include a promise of confidentiality that all or certain records shall remain closed and not available for public inspection and copying.

History: Cr. Register, January, 1991, No. 421, eff. 2-1-91; am. (1) (a) to (g) and (2), Register, July, 1996, No. 487, eff. 8-1-96; am. (1) (d), Register, January, 2001, No. 541, eff. 2-1-01.

**RL 7.06 Standards for approval of treatment facilities or individual therapists.** (1) The board or board liaison shall approve a treatment facility designated by a credential holder for the purpose of participation in the procedure if:

- (a) The facility is certified by appropriate national or state certification agencies.
- (b) The treatment program focus at the facility is on the individual with drug and alcohol abuse problems.
- (c) Facility treatment plans and protocols are available to the board liaison and coordinator.
- (d) The facility, through the credential holder's supervising therapist, agrees to file reports as required, including quarterly progress reports and immediate reports if a credential holder withdraws from therapy, relapses, or is believed to be in an unsafe condition to practice.

(2) As an alternative to participation by means of a treatment facility, a credential holder may designate an individual therapist for the purpose of participation in the procedure. The board liaison shall approve an individual therapist who:

- (a) Has credentials and experience determined by the board liaison to be in the credential holder's area of need.
- (b) Agrees to perform an appropriate assessment of the credential holder's therapeutic needs and to establish and implement a comprehensive treatment regimen for the credential holder.
- (c) Forwards copies of the therapist's treatment regimen and office protocols to the coordinator.
- (d) Agrees to file reports as required to the coordinator, including quarterly progress reports and immediate reports if a credential holder withdraws from therapy, relapses, or is believed to be in an unsafe condition to practice.

(3) If a board liaison does not approve a treatment facility or therapist as requested by the credential holder, the credential holder may, within 10 days of notice of the determination, request the board to review the board liaison's adverse determination.

History: Cr. Register, January, 1991, No. 421, eff. 2-1-91; am. Register, July, 1996, No. 487, eff. 8-1-96; r. (1) (d) and (2) (d), renum. (1) (e) and (2) (e) to be (1) (d) and (2) (d) and am., Register, January, 2001, No. 541, eff. 2-1-01.

**RL 7.07 Intradepartmental referral.** **(1)** A credential holder who contacts the department and requests to participate in the procedure shall be referred to the board liaison and the coordinator for determination of acceptance into the procedure.

**(2)** The division may refer individuals named in informal complaints to the board liaison for acceptance into the procedure.

**(3)** The board liaison may refer cases involving the following to the division for investigation or prosecution:

(a) Credential holders participating in the procedure who are dismissed for failure to meet the requirements of their rehabilitation program or who otherwise engage in behavior which should be referred to prevent harm to the public.

(b) Credential holders who apply and who are determined to be ineligible for the procedure where the board liaison is in possession of information indicating a violation of law.

(c) Credential holders who do not complete an agreement for participation where the board liaison is in possession of information indicating a violation of law.

(d) Credential holders initially referred by the division to the board liaison who fail to complete an agreement for participation.

History: Cr. Register, January, 1991, No. 421, eff. 2-1-91; ~~2000~~ (1), (3) (a) to (d), Register, July, 1996, No. 487, eff. 8-1-96.

**RL 7.08 Records.** **(1) CUSTODIAN.** All records relating to the procedure including applications for participation, agreements for participation and reports of participation shall be maintained in the custody of the department secretary or the secretary's designee.

**(2) AVAILABILITY OF PROCEDURE RECORDS FOR PUBLIC INSPECTION.** Any requests to inspect procedure records shall be made to the custodian. The custodian shall evaluate each request on a case by case basis using the applicable law relating to open records and giving appropriate weight to relevant factors in order to determine whether public interest in nondisclosure outweighs the public interest in access to the records, including the reputational interests of the credential holder, the importance of confidentiality to the functional integrity of the procedure, the existence of any pledge of confidentiality, statutory or common law rules which accord a status of confidentiality to the records and the likelihood that release of the records will impede an investigation.

**(3) TREATMENT RECORDS.** Treatment records concerning individuals who are receiving or who at any time have received services for mental illness, developmental disabilities, alcoholism, or drug dependence which are maintained by the department, by county departments under s. 51.42 or 51.437, Stats., and their staffs and by treatment facilities are confidential under s. 51.30, Stats., and shall not be made available for public inspection.

**(4) PATIENT HEALTH CARE RECORDS.** Patient health care records are confidential under s. 146.82, Stats., and shall not be made available to the public without the informed consent of the patient or of a person authorized by the patient or as provided under s. 145.82 (2), Stats.

History: Cr. Register, January, 1991, No. 421, eff. 2-1-91; ~~2000~~ (2). Register, July, 1996, No. 487, eff. 8-1-96.

**RL 7.09 Report.** The board liaison or coordinator shall report on the procedure to the board at least twice a year and if requested to do so by a board.

History: Cr. Register, January, 1991, No. 421, eff. 2-1-91; 3m. Register, July, 1996, No. 487, eff. 8-1-96.

**RL 7.10 Applicability of procedures to direct licensing by the department.** This procedure may be used by the department in resolving complaints against persons licensed directly by the department if the department has authority to discipline the credential holder. In such cases, the department secretary shall have the authority and responsibility of the "board" as the

term is used in the procedure and shall designate an employee to perform the responsibilities of the "board liaison."

History: Cr. Register, January, 1991, No. 421, eff. 2-1-91; am. Register, July, 1996, No. 487, eff. 8-1-96.

**RL 7.11 Approval of drug testing programs.** The department shall approve drug testing programs for use by credential holders who participate in drug and alcohol monitoring programs pursuant to agreements between the department or boards and credential holders, or pursuant to disciplinary orders. To be approved as a drug testing program for the department, programs shall satisfactorily meet all of the following standards in the areas of program administration, collection site administration, laboratory requirements and reporting requirements:

**(1) Program administration requirements are:**

(a) The program shall enroll participants by setting up an account, establishing a method of payment and supplying pre-printed chain-of-custody forms.

(b) The program shall provide the participant with the address and phone number of the nearest collection sites and shall assist in locating a qualified collection site when traveling outside the local area.

(c) Random selection of days when participants shall provide specimens shall begin upon enrollment and the program shall notify designated department staff that selection has begun.

(d) The program shall maintain a nationwide 800 number or an internet website that is operational 24 hours per day, 7 days per week to inform participants of when to provide specimens.

(e) The program shall maintain and make available to the department through an internet website data that are updated on a daily basis verifying the date and time each participant was notified after random selection to provide a specimen, the date, time and location each specimen was collected, the results of drug screen and whether or not the participant complied as directed.

**(f)** The program shall maintain internal and external quality of test results and other services.

(g) The program shall maintain the confidentiality of participants in accordance with s. 146.82, Stats.

(h) The program shall inform participants of the total cost for each drug screen including the cost for program administration, collection, transportation, analysis, reporting and confirmation. Total cost shall not include the services of a medical review officer.

(i) The program shall immediately report to the department if the program, laboratory or any collection site fails to comply with this section. The department may remove a program from the approved list if the program fails to comply with this section.

**(j)** The program shall make available to the department experts to support a test result for 5 years after the test results are released to the department.

(k) The program shall not sell or otherwise transfer or transmit names and other personal identification information of the participants to other persons or entities without permission from the department. The program shall not solicit from participants presently or formerly in the monitoring program or otherwise contact participants except for purposes consistent with administering the program and only with permission from the department.

**(l)** The program and laboratory shall not disclose to the participant or the public the specific drugs tested.

**(2) Collection site administration requirements are:**

(a) The program shall locate, train and monitor collection sites for compliance with the U.S. department of transportation collection protocol under 49 CFR 40.

(b) The program shall require delivery of specimens to the laboratory within 24 hours of collection.

**(3) Laboratory requirements are:**

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(a) The program shall utilize a laboratory that is certified by the U.S. department of health and human services, substance abuse and mental health services administration under 49 CFR 40. If the laboratory has had adverse or corrective action, the department shall evaluate the laboratory's compliance on a case by case basis.

(b) The program shall utilize a laboratory capable of analyzing specimens for drugs specified by the department.

(c) Testing of specimens shall be initiated within 48 hours of pickup by courier.

(d) All positive drug screens shall be confirmed utilizing gas chromatography in combination with mass spectrometry, mass spectrometry, or another approved method.

(e) The laboratory shall allow department personnel to tour facilities where participant specimens are tested.

**(4)** The requirements for reporting of results are:

(a) The program shall provide results of each specimen to designated department personnel within 24 hours of processing.

(b) The program shall inform designated department personnel of confirmed positive test results on the same day the test results are confirmed or by the next business day if the results are confirmed after hours, on the weekend or on a state or federal holiday.

(c) The program shall fax, e-mail or electronically transmit laboratory copies of drug test results at the request of the department.

(d) The program shall provide a medical review officer upon request and at the expense of the participant, to review disputed positive test results.

(e) The program shall provide chain-of-custody transfer of disputed specimens to an approved independent laboratory for retesting at the request of the participant or the department.

**History:** Cr. Register, January, 2001, No. 541, eff. 2-1-01.

## Chapter RL 7

## APPENDIX I

## CONSENT FOR RELEASE OF INFORMATION

I, ( #1 ), hereby authorize ( #2 ) to provide the board liaison for the Department of Regulation and Licensing Impaired Professionals Procedure, P.O. Box 8935, Madison, Wisconsin 53708, or persons designated by the board liaison who are directly involved in administration of the procedure, with( #3 ). I further authorize ( #4 ) to discuss with the board liaison or the board liaison's designee any matter relating to the records provided and to allow the board liaison or the board liaison's designee to examine and copy any records or information relating to me.

I hereby also authorize the board liaison or the board liaison's designee to provide ( #5 ) with copies of any information provided to the board liaison pursuant to this consent for release of information authorizing the release of information to the board liaison from those persons and institutions.

In the event of my dismissal from the Impaired Professionals Procedure, I hereby also authorize the board liaison or the board liaison's designee to provide the Division of Enforcement with the results of any investigation conducted in connection with my application to participate in the Impaired Professionals Procedure and with any documentation, including patient health care records, evidencing my failure to meet participation requirements.

This consent for release of information is being made for the purposes of monitoring my participation in the Impaired Professionals Procedure, and any subsequent procedures before the Wisconsin ( #6 ); and for the further purpose of permitting exchange of information between the board liaison or the board liaison's designee and persons or institutions involved in my participation in the Impaired Professionals Procedure where such exchange is necessary in the furtherance of my treatment or to provide information to the Division of Enforcement in the event of my dismissal from the Impaired Professionals Procedure.

Unless revoked earlier, this consent is effective until ( #7 ). I understand that I may revoke this consent at any time and that information obtained as a result of this consent may be used after

the above expiration date or revocation. A reproduced copy of this consent form shall be as valid as the original.

I understand that should I fail to execute this consent for release of information, I shall be ineligible to participate in the Impaired Professionals Procedure. I also understand that should I revoke this consent prior to completion of my participation in the Impaired Professionals Procedure, I will be subject to dismissal from the procedure.

I understand that the recipient of information provided pursuant to this Consent for Release of Information is not authorized to make any further disclosure of the information without my specific written consent: or except as otherwise permitted or required by law.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
Signature of IPP Participant Participant's Date of Birth

## INSERTIONS

1. Participant
2. Persons and institutions provided with releases for provision of information to the department
3. Examples: Drug and alcohol treatment records  
Mental health/psychiatric treatment records  
Personnel records: work records  
Results of blood or urine screens
4. Persons or institutions given authorization
5. Persons or institutions given authorization in the first paragraph
6. Name of board
7. Date to which consent is effective

## Chapter RL 8

## ADMINISTRATIVE WARNINGS

RL 8.01	Authority and scope.	RL 8.05	Request for a review of an administrative warning.
RL 8.02	Definitions.	RL 8.06	Procedures.
RL 8.03	Findings before issuance of an administrative warning.	RL 8.07	Transcription fees.
RL 8.04	Issuance of an administrative warning.		

**RL 8.01 Authority and scope.** Rules in this chapter are adopted under the authority of s. 440.205, Stats., to establish uniform procedures for the issuance and use of administrative warnings.

**History:** Cr. Register, January, 1999, No. 517, eff. 2-1-99.

**RL 8.02 Definitions.** As used in s. 440.205, Stats., and in this chapter:

(1) "Credential" means a license, permit, or certificate of certification or registration that is issued under chs. 440 to 480, Stats.

(2) "Department" means the department of regulation and licensing.

(3) "Disciplinary authority" means the department or an attached examining board, affiliated credentialing board or board having authority to reprimand a credential holder.

(4) "Division" means the division of enforcement in the department.

(5) "First occurrence" means any of the following:

(a) The credential holder has never been charged as a respondent in a formal complaint filed under ch. RL 2.

(b) Other than the matter pending before the disciplinary authority, no informal complaint alleging the same or similar misconduct has been filed with the department against the credential holder.

(c) The credential holder has not been disciplined by a disciplinary authority in Wisconsin or another jurisdiction.

(6) "Minor violation" means all of the following:

(a) No significant harm was caused by misconduct of the credential holder.

(b) Continued practice by the credential holder presents no immediate danger to the public.

(c) If prosecuted, the likely result of prosecution would be a reprimand or a limitation requiring the credential holder to obtain additional education.

(d) The complaint does not warrant use of prosecutorial resources.

(e) The credential holder has not previously received an administrative warning.

(7) "Misconduct" means a violation of a statute or rule related to the profession or other conduct for which discipline may be imposed under chs. 440 to 480, Stats.

**History:** Cr. Register, January, 1999, No. 517, eff. 2-1-99.

**RL 8.03 Findings before issuance of an administrative warning.** Before issuance of an administrative warning, a disciplinary authority shall make all of the following findings:

(1) That there is specific evidence of misconduct by the credential holder.

(2) That the misconduct is a first occurrence for the credential holder.

(3) That the misconduct is a minor violation of a statute or rule related to the profession or other conduct for discipline may be imposed.

(4) That issuance of an administrative warning will adequately protect the public.

**History:** Cr. Register, January, 1999, No. 517, eff. 2-1-99.

**RL 8.04 Issuance of an administrative warning.**

(1) An administrative warning shall be substantially in the form shown in Appendix I.

(2) An administrative warning may be issued to a credential holder by mailing the administrative warning to the last address provided by the credential holder to the department. Service by mail is complete on the date of mailing.

**History:** Cr. Register, January, 1999, No. 517, eff. 2-1-99.

**RL 8.05 Request for a review of an administrative warning.** A credential holder who has been issued an administrative warning may request the disciplinary authority to review the issuance of the administrative warning by filing a written request with the disciplinary authority within 20 days after the mailing of the administrative warning. The request shall be in writing and set forth:

(1) The credential holder's name and address.

(2) The reason for requesting a review.

**History:** Cr. Register, January, 1999, No. 517, eff. 2-1-99.

**RL 8.06 Procedures.** The procedures for an administrative warning review are:

(1) Within 45 calendar days of receipt of a request for review, the disciplinary authority shall notify the credential holder of the time and place of the review.

(2) No discovery is permitted. A credential holder may inspect records under s. 19.35, Stats., the public records law.

(3) The disciplinary authority or its designee shall preside over the review. The review shall be recorded by audio tape unless otherwise specified by the disciplinary authority.

(4) The disciplinary authority shall provide the credential holder with an opportunity to make a personal appearance before the disciplinary authority and present a statement. The disciplinary authority may request the division to appear and present a statement on issues raised by the credential holder. The disciplinary authority may establish a time limit for making a presentation. Unless otherwise determined by the disciplinary authority, the time for making a personal appearance shall be 20 minutes.

(5) If the credential holder fails to appear for a review, or withdraws the request for a review, the disciplinary authority may note the failure to appear in the minutes and leave the administrative warning in effect without further action.

**History:** Cr. Register, January, 1999, No. 517, eff. 2-1-99.

**RL 8.07 Transcription fees.** (1) The fee charged for a transcript of a review under this chapter shall be computed by the person or reporting service preparing the transcript on the following basis:

(a) If the transcript is prepared by a reporting service, the fee charged for an original transcription and for copies shall be the amount identified in the state operational purchasing bulletin which identifies the reporting service and its fees.

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(b) If a transcript is prepared by the department, the department shall charge a transcription fee of \$1.75 per page and a copying charge of \$.25 per page. If 2 or more persons request a transcript, the department shall charge each requester a copying fee of \$.25 per page, but may divide the transcript fee equitably among the requesters. If the department has prepared a written transcript for its own use prior to the time a request is made, the department shall

assume the transcription fee, but shall charge a copying fee of \$.25 per page.

**(2)** A person who is without means and who requires a transcript for appeal or other reasonable purposes shall be furnished with a transcript without charge upon the filing of a petition of indigence signed under oath.

**History:** Cr. Register, January, 1999, No. 517. eff. 2-1-99.



**Chapter RL 8**

**APPENDIX I**

**DEPARTMENT OF REGULATION AND LICENSING**

**[DISCIPLINARY AUTHORITY]**

**ADMINISTRATIVE WARNING**

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This administrative warning is issued by the {disciplinary authority} to {credentialholder} pursuant to s. 440.205, Stats. The {disciplinary authority} makes the following findings:

- 1) That there is evidence of professional misconduct by (credential holder), to wit:
- 2) That this misconduct is a first occurrence for {credentialholder}.
- 3) That this misconduct is a minor violation of {statute or rule}.
- 4) That issuance of this administrative warning will adequately protect the public and no further action is warranted.

Therefore, the (disciplinary authority) issues this administrative warning and hereby puts the {credentialholder} on notice that any subsequent violation may result in disciplinary action. The investigation of this matter is hereby closed.

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature of authorized representative  
For {Disciplinary Authority}

**Right to Review**

**You may obtain a review of this administrative warning by filing a written request with the {disciplinary authority} within 20 days of mailing of this warning. The review will offer the credential holder an opportunity to make a personal appearance before the (disciplinary authority).**

*The record that this administrative warning was issued is a public record.*

*The content of this warning is private and confidential.*

## Chapter RL 9

**DENIAL OF RENEWAL APPLICATION BECAUSE APPLICANT IS LIABLE FOR DELINQUENT TAXES**

RL 9.01 Authority.  
 RL 9.02 Scope; nature of proceedings.  
 RL 9.03 Definitions.

RL 9.04 Procedures for requesting the department of revenue to certify whether an applicant for renewal is liable for delinquent taxes  
 RL 9.05 Denial of renewal

**RL 9.07 Authority.** The rules in ch. RL 9 are adopted under the authority in s. 440.03, Stats.

**History:** Emerg. cr. eff. 11-14-96; Cr. Register, August, 1996, No. 488, eff. 9-1-96.

**RL 9.02 Scope; nature of proceedings.** The rules in this chapter govern the procedures for requesting the Wisconsin department of revenue to certify whether an applicant is liable for delinquent taxes owed to this state under s. 440.08 (4) (b), Stats., as created by 1995 Wis. Act 27 and amended by 1995 Wis. Act 233, to review denial of an application for renewal because the applicant is liable for delinquent taxes.

**History:** Emerg. cr. eff. 11-14-96; Cr. Register, August, 1996, No. 488, eff. 9-1-96.

**RL 9.03 Definitions.** In this chapter:

(1) "Applicant" means a person who applies for renewal of a credential. "Person" in this subsection includes a business entity.

(2) "Credential" has the meaning in s. 440.01 (2) (a), Stats.

(3) "Department" means the department of regulation and licensing.

(4) "Liable for any delinquent taxes owed to this state" has the meaning set forth in s. 73.0301 (1) (c), Stats.

**History:** Emerg. cr. eff. 11-13-96; Cr. Register, August, 1996, No. 485, eff. 9-1-96; correction in (4) made under s. 13.93 (2m) (b) 7., Stats.

**RL 9.04 Procedures for requesting the department of revenue to certify whether an applicant for renewal is liable for delinquent taxes.** ~~RENEWAL APPLICATION FORM.~~ If the department receives a renewal application that does not include the information required by s. 440.08 (2g) (b), Stats., the application shall be denied unless the applicant provides the missing information within 20 days after the department first received the application.

**Note:** 1997 Wis. Act 191 repealed s. 440.08 (2g) (b), Stats.

(2) **SCREENING FOR LIABILITY FOR DELINQUENT TAXES.** The name and social security number or federal employer identification number of an applicant shall be compared with information at the Wisconsin department of revenue that identifies individuals and organizations who are liable for delinquent taxes owed to this state.

(3) **NOTICE OF INTENT TO DENY BECAUSE OF TAX DELINQUENCY.** If an applicant is identified as being liable for any delinquent taxes owed to this state in the screening process under sub. (2), the Wisconsin department of revenue shall mail a notice to the applicant at the last known address of the applicant according to s. 440.11, Stats., or to the address identified in the applicant's renewal application, if different from the address on file in the department. The notice shall state that the application for renewal submitted by the applicant shall be denied unless, within 10 days from the date of the mailing of the notice, the department of regulation and licensing receives a copy of a certificate of tax clearance issued by the Wisconsin department of revenue which shows that the applicant is not liable for delinquent state taxes or unless the Wisconsin department of revenue provides documentation to the department showing that the applicant is not liable for delinquent state taxes.

(4) **OTHER REASONS FOR DENIAL.** If the department determines that grounds for denial of an application for renewal may exist other than the fact that the applicant is liable for any delinquent taxes owed to this state, the department shall make a determination on the issue of tax delinquency before investigating other issues of renewal eligibility.

**History:** Emerg. cr. eff. 11-14-96; Cr. Register, August, 1996, No. 488, eff. 9-1-96.

**RL 9.05 Denial of renewal.** The department shall deny an application for credential renewal if the applicant fails to complete the information on the application form under s. RL 9.04 or if the Wisconsin department of revenue certifies or affirms its certification under s. 440.08 (4) (b) 3., Stats., that the applicant is liable for delinquent taxes and the department does not receive a current certificate of tax clearance or the Wisconsin department of revenue does not provide documentation showing that the applicant is not liable for delinquent taxes within the time required under s. RL 9.04 (2) and (3). The department shall mail a notice of denial to the applicant that includes a statement of the facts that warrant the denial under s. 440.08 (4) (b), Stats., and a notice that the applicant may file a written request with the department to have the denial reviewed at a hearing before the Wisconsin department of revenue.

**Note:** Section 440.08 (4) (b) 3., Stats., referred to here was repealed by 1997 Wis. Act 237 and a new, unrelated s. 440.08 (4) (b) recreated.

**History:** Emerg. cr. eff. 11-14-96; Cr. Register, August, 1996, No. 488, eff. 9-1-96.

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